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SEAFARER SITE SURVEY, UPPER MICHIGAN REGION. BOOK 3. GOVERNMENT--ETC(U)
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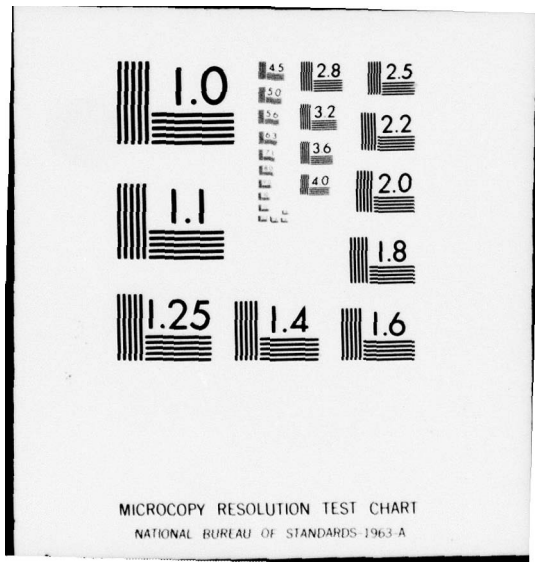
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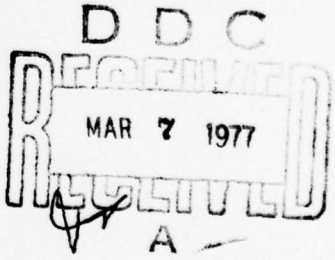
BOOK 3

GOVERNMENTAL DATA
of the
UPPER MICHIGAN REGION
PROJECT SEAFARER



for
U. S. Navy. Naval Electronic Systems Command

by
EDAW, Inc., 50 Green Street, San Francisco 94111

Under Contract to
GTE Sylvania, Communication Systems Division

April, 1976

CONTENTS

SUMMARY

State and Local Government

Home Rule, initially a product of the 1908 State Constitutional Revision (and strengthened in 1962) has been one of the leading factors in allowing Michigan to be somewhat experimental with municipal practices and forms of government. The greater independence of the city in maintaining local regulations, functions and state-imposed duties in one integrated unit accounts for the creation of many small cities in recent decades. Similar trends have developed in villages to seek incorporation, thereby also achieving a separation of jurisdiction. Incorporation of well settled communities is within the basic established pattern of counties and townships.

Each county has its own legal personality. However, as an agent for the state it is required to carry out certain programs for the state which may or may not be paid for by the state. Conducting elections, enforcing state criminal laws, registering property deeds, issuing of birth certificates and the administration of justice are some of the functions conducted by county government on behalf of the state. Cities and villages do not perform these functions.

Regional Planning Districts

In recognition of the growing rural-urban interaction and the dependence of both on the natural environment, the Western and Central Upper Peninsula Planning and Development Regions have broadened significantly the scope and focus of land use considerations and planning efforts within the Study Area.

Zoning

Few townships in the region have what could be considered a master plan in the classic sense. Many zoning ordinances have evolved as the result of categorization of existing land use or ownership. Other zoning ordinances need overhauling to meet ecological and natural resource considerations as well as state legislation affecting natural rivers and shorelines.

EVOLUTION

Local Government

The early French settlers of Michigan lived under military rule and were never given local governmental rights. Under English control, the pattern established by the French was not radically altered. A civilian governor and administrative council had almost absolute control, but the military still maintained heavy influence. It was not until 1796 when the Northwest Territory was annexed by the United States and came under the provisions of the Northwest Ordinance of 1787 that real local self-government had its genesis.

By 1805, counties were established and soon after Detroit became the State's first incorporated city under special acts of the Territorial Legislature. In 1825 Congress gave power to the Governor and Council of Michigan to incorporate townships and provide for the election of county and township officers. This may be considered the foundation of local government in Michigan.

The first Constitution of Michigan, that of 1837 when the state joined the Union, had no provision for local government organization. Local governmental units were included in the Constitution of 1850 in more detail, but the state legislature was made the real source of power. By 1857, a general law had been authorized for the incorporation of villages and was superseded by a new act in 1875. This general law still required a special act of the legislature to complete incorporation proceedings so it was not a general law for municipalities in the present day sense. The act remained in effect until 1895 when the present law was adopted (Public Act 3). It is this act which now governs villages as general law, not to be confused with the Home Rule Act of 1909 authorizing a city or village under state law to draft and adopt a charter for its own government. The 1909 Home Rule Act ended nearly 100 years of special legislative rule.

County Government

The foundation and designation of counties was frequently based on political considerations rather than geographic conditions. County lines are straight lines often enclosing roughly square or rectangular land areas. The last of Michigan's 83 counties was organized in 1891 when Dickinson County was formed. Counties were formed by dividing or reducing those previously established. The principal criterion for division was the number of settlers in the area. The legislature would designate and name an area as a county, and for a time it would be attached to an existing

organized county for governing purposes. After the newly formed county was established and the number of settlers became large enough, the legislature would pass an organization act to establish the county permanently.

School Districts

The elements of a state system were initially developed through passage of laws in 1837 providing for the establishment of school districts in each township with the authority to levy taxes for school support and the establishment of the University of Michigan and its branches, forerunners of today's high schools.

Anticipated Future Conditions and Special Districts

Basic governmental structure changes are not likely to occur within the Upper Peninsula region. However, subtle rectifications to existing legislation at the state level could precipitate alterations in local codes and regulations in response to changing needs and desires of the area population.

Future changes at the state and local level will most likely affect the creation of special districts to preserve natural features and scenic amenities, define land use policy, and promote methods to bolster the Upper Peninsula economy in general.

The Western and Central Upper Peninsula Planning and Development Regions created in the late 1960s through public act as part of a statewide planning effort, are examples of special governmental considerations given to regionally planning the environment where local agencies have not displayed the initiative.

A desired future direction for the Western Upper Peninsula as indicated through WUPPDR and CUPPAD major goals is to increase employment opportunities; increase the quantity and quality of community facilities; improve local and regional transportation systems; encourage community development and the implementation of planning and land use regulations; promote the development and wise utilization of natural resources and coordinate project funding with local governmental units.

As plans are formulated, programs implemented and unforeseen events unfold, these operational objectives will gain or diminish in influence as projects and programs are accomplished or abandoned.

DISTINCTIVE UNITS AND CHARACTERISTICS

Federal

The Federal Government and the agencies which represent it in the Study Area vary in the degree of their influence. This is based upon the amount of land area falling directly under the jurisdiction of the various bureaus and the regional implications of land management and use control.

The 13,753 acre L'Anse Indian Reservation in Baraga County is held under the jurisdiction of the U. S. Department of the Interior, Bureau of Indian Affairs. Planning and programming assistance for the 83,980 acre Sturgeon River Watershed project is provided by the USDA Soil Conservation Service and the USDA Forest Service. Additionally, the USDA Forest Service provides administration for the Ottawa National Forest west of the Study Area, the Hiawatha National Forest east of the Study Area and for two experimental forests within the Study Area.

Management direction for forests starts in Washington where national direction is provided by both Congress and the Administration. From these two sources, it is passed through the Department of Agriculture to Forest Service national headquarters, then to the Regional Office in Milwaukee.

In matters of land use, maintenance and policing, the Supervisor of each District Office of the National Forests has final responsibility. However, management recommendations and the execution of experimental programs in the experimental forests are the concern of the Forest Service's North Central Experimental Station in Minneapolis, Minnesota. Authority to use national forest lands for extensive rights-of-way purposes would most likely be developed by a memorandum of understanding between the sponsoring agency and the Forest Service itself.

State

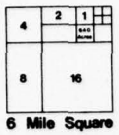
In addition to state statutes relating to local government establishment and control, the State exercises its jurisdiction and powers through its established departments and commissions noted in other sections of this report. The Departments of Commerce, Agriculture, Education, Natural Resources, State Highways and others as represented through their many respective commissions and boards exercise strong influence concerning land use, conservation, and development. (Refer to Appendix B for locating, constructing and

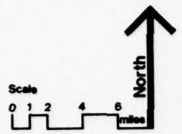
Seafarer Site Survey
Upper Michigan Region

by
EDAW inc.
San Francisco, California

under contract to
GTE Sylvania
Communication Systems Division
Needham Heights, Massachusetts

for
U.S. Navy
Naval Electronic System. Command
Washington, D.C.

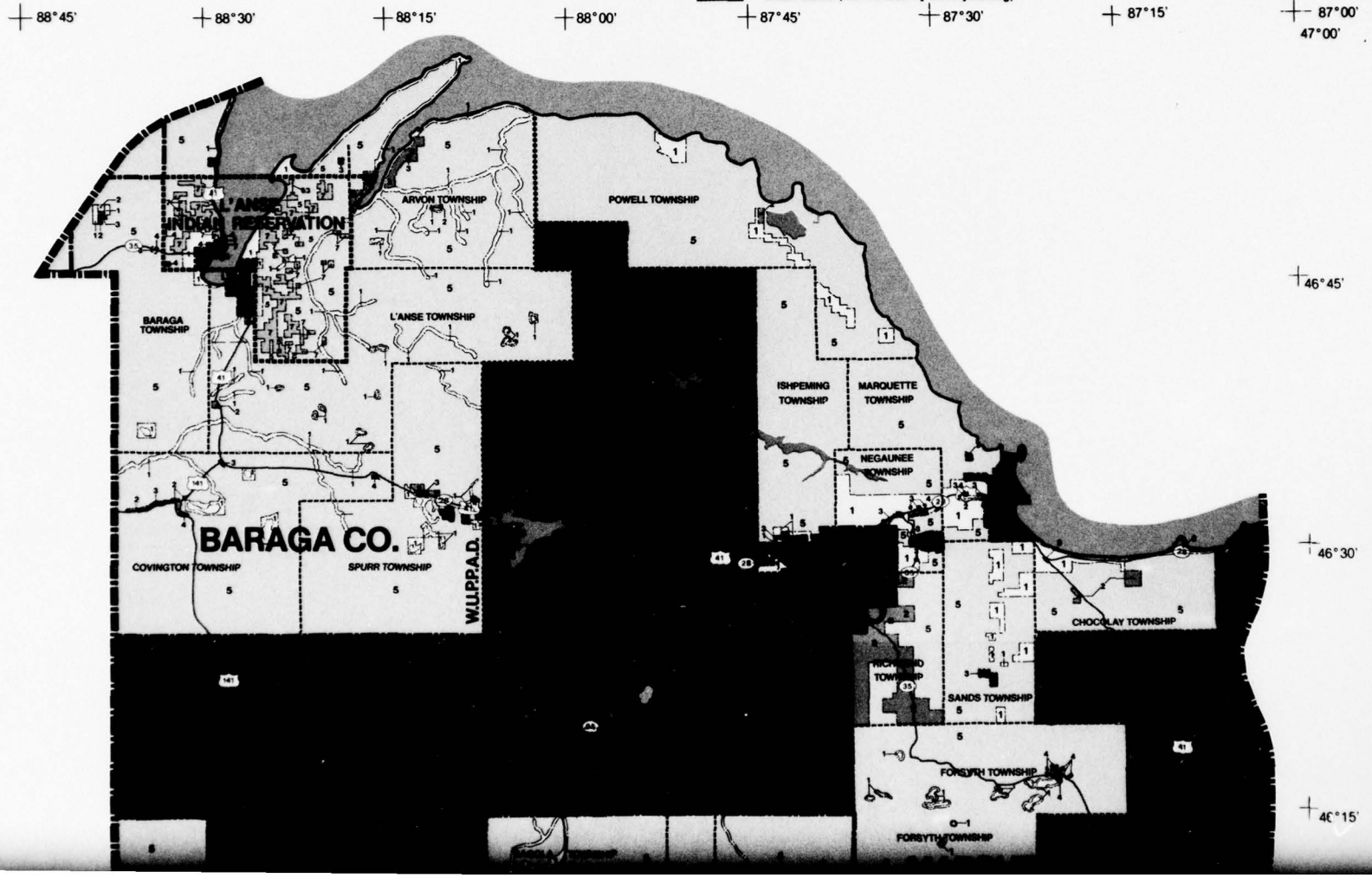


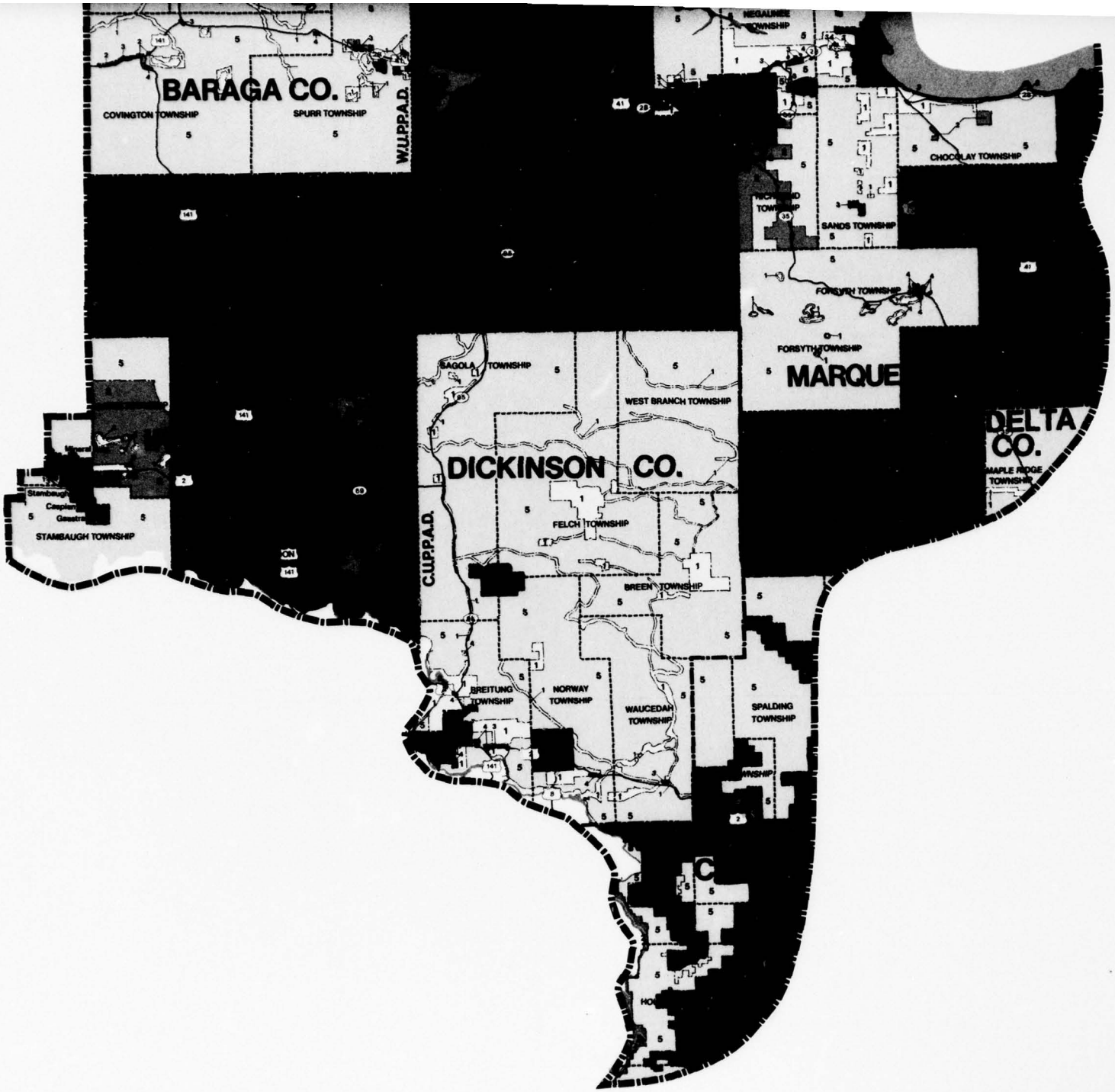


GOVERNMENT

BOUNDARIES
- Planning Region
- County
- Township
- Corporate
- Indian Reservation
- Zoning

ZONING CLASSIFICATION (See Text)
- Residential
- Residential / Commercial
- Commercial
- Industrial
- Agriculture
- Unrestricted
- Indian Lands (Not Covered by County Zoning)




BARAGA CO.
COVINGTON TOWNSHIP
SPURR TOWNSHIP
W.U.P.P.A.D.
NEGAUNEE TOWNSHIP
CHOCOLAY TOWNSHIP
SANDS TOWNSHIP
FORSYTH TOWNSHIP
FORSYTH TOWNSHIP
MARQUE
DELTA CO.
MAPLE RIDGE TOWNSHIP
SAGOLA TOWNSHIP
WEST BRANCH TOWNSHIP
DICKINSON CO.
FELCH TOWNSHIP
BREEN TOWNSHIP
C.U.P.P.A.D.
STAMBAUGH TOWNSHIP
BREITUNG TOWNSHIP
NORWAY TOWNSHIP
WAUCEDAH TOWNSHIP
SPALDING TOWNSHIP
46°30'
46°15'
46°00'
45°45'
45°30'

maintaining communication lines on state lands.) Much planning assistance is provided state government through federal agencies involved in watershed development and forest and land management programs.

Created by Executive Order 1973-9, the Michigan Environmental Review Board (MERB) functions as a state advisory agency responsible to the Governor on matters pertaining to environmental issues and policy. In addition to its advisory capacity, the Board performs a technical review of environmental impact reports in the interest of protecting the State's natural resources.

Planning Regions

The Western Upper Peninsula Planning and Development Region (WUPPDR) is a six-county planning and economic development district formed under the Public Works and Economic Development Act of 1965. The organization was fostered by the Michigan Department of Commerce under the auspices of the Economic Development Administration (EDA) of the U. S. Department of Commerce, and brought into being by the Boards of Commissioners of Baraga, Gogebic, Houghton, Iron, Keweenaw and Ontonagon Counties. Total representation on the Commission is unlimited, but the apportionment must remain equal for each County represented, with membership open to any unit of government choosing to participate. WUPPDR employs a full-time staff of professional planners.

Performing functions similar to WUPPDR, the Central Upper Peninsula Planning and Development Region (CUPPAD), was organized in 1968 by public officials and interested citizens from six counties -- Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft. As with WUPPDR, CUPPAD is officially constituted under public laws 46 and 281 of the State of Michigan. This legislation was further strengthened through the issuance of Executive Directive 1968-1, establishing 14 official and uniform planning and development regions covering the state.

The CUPPAD 30-member Commission is composed of representatives from local governmental units and community groups. WUPPDR and CUPPAD staffs provide assistance to local government in grant applications, project funding, community planning, zoning, water projects, law enforcement, and natural resources management.

WUPPDR - Planning Region 13
CUPPAD - Planning Region 12

County

The county governmental structure as it exists today in Michigan was defined in the Constitution of 1835. The minimum county size was set at 16 surveyed townships or 576 square miles. Various constitutional revisions and legislative acts have extended the county powers as an independent corporate entity. The basic powers of county government include responsibility to purchase real estate for county use, borrow money for service projects, make contracts for those projects, and perform acts necessary to safeguard county property.

The county has the additional status of "agent" for the state. Because of this status the state government has continuously extended new powers to county government. In addition to its legislative and judicial powers, counties were extended the right in 1943 to create zoning commissions to establish countywide zoning ordinances. In 1945 the County Planning Commission Act enabled each County Board of Commissioners to establish a 5 to 11 man commission for development and operation of a master planning process for unincorporated portions of each county.

In the past, county governments have not exercised all the powers they have been granted. However, today all counties within the Study Area have active planning commissions compared to 1972 when only two had such bodies. (Baraga County, Delta County and two townships in Marquette County have recently been zoned.) As of January 1976 65% of the Study Area was covered by some form of zoning - either county, township or city. However, at the present time none of the Study Area counties has an active Department of Public Works for the establishment of utility districts.

The Michigan County is a potentially powerful governmental unit but due to a lack of local funding, many departments and programs remain undeveloped. Road construction, law enforcement, emergency services and general maintenance operations take precedence over planning and development programs. Most counties have elected to transfer funds available for local planning to the regional planning and development agencies.

Township

The basic structure of township government was first established by the Public Acts of 1827 and with little change remains substantially the same today. The State Constitution as adopted in 1963 provides in Article VII, Section 18, that

in each township there shall be elected for terms of not less than two nor more than four years a supervisor, clerk, treasurer, and trustees not more than four in number, collectively known as the Township Board.

Principal powers of the Board are to secure taxes, create debt, issue by-laws and orders regulating township affairs and acquire and hold real and personal property for public use. In recent years township governments have had to meet increasing demands for public services and utilities. Consequently, the legislature has given townships broad powers to provide for water supply, storm and sanitary sewers, fire and police protection, traffic control, roads, zoning and planning ordinances, and public health controls. Most ordinances can be adopted by resolution of the township board followed by media publication and subsequent entry into the township ordinance book. Exceptions are zoning ordinances and amendments which must be preceded by public hearings before the township zoning commission or coordinating committee.

Incorporated Settlements--City

Within the Study Area, eleven urbanized regions have been incorporated into cities. All of these cities have adopted Home Rule provisions of the Constitution of 1908 and 1963. Home Rule frees cities to devise forms of government and exercise powers of self-government under locally prepared charters adopted by referendum, which is unlike legislative establishment of local charters by special act resulting in cities having standard charters from state capitols.

A city, being withdrawn from the township, must provide the basic state required duties as well as its own services. In addition to assessing property and collecting taxes for county and school purposes, the city also becomes solely responsible for registration of voters and conducting all elections within its boundaries.

A population of 750 is the required minimum an incorporated village or an "unorganized territory" must have to petition for city incorporation under Home Rule. An unorganized territory must also have a population density of 500 per square mile. Petitions for incorporation and annexation of new territories are made to the State Boundary Commission in accordance with Public Act 191 of 1968. The corporate limits of these cities have strong governmental implications. There is legal provision for municipal extraterritorial jurisdiction into the township surrounding the city.

A city can include in its planning district an area it intends to annex, but the city has no real power of eminent domain outside of its corporate boundaries.

Incorporated Settlements--Village

There are only four incorporated villages within the Study Area: L'Anse and Baraga of Baraga County, and Alpha and Mineral Hills of Iron County. The former two are established under the State General Law for Villages of 1895. This law enables the village to regulate ordinances to provide for limited local services. Alpha and Mineral Hills are incorporated under Home Rule Charter. The Home Rule villages have drafted and can redraft their own charters while the General Law villages can only amend their basic charter.

Organization under Home Rule Charter requires a population of 150 with a density of 100 per square mile. Incorporation under General Law requires a population of 250 and not less than three-fourths of a square mile. The incorporated village, unlike the city, participates in township affairs. The township maintains the power of levying taxes for school districts; administering county, state, and national elections; and assessing property.

Township and villages frequently work together for combined public services. Often, the incorporated village becomes the township's central point of origin for water and waste water systems. The village corporate limits take on less significance than the city limits, especially when an incorporated village is the seat of the township.

Incorporated Settlements--Extraterritorial Power

The question of extraterritorial power covers a large area. There are a number of statutes in Michigan which relate to extraterritorial powers of cities but none have any "teeth" in them and none have been used to any great extent. There are no written opinions or court decisions involving such extraterritorial powers.

There are many areas in which the city may have some type of extraterritorial power. For instance, the constitution recognizes the right of cities to furnish utility service beyond its corporate limits and the right to condemn land for public purposes. One of the more important references

to extraterritorial jurisdiction is found in the City and Village Planning Act of 1931, Section 6. This section provides in part as follows: "It shall be the function and duty of the Commission to make and adopt a master plan for the physical development of the municipality, including any areas outside of its boundaries which, in the commission's judgment, bear relation to the planning of such municipality."

The big question with relation to this provision has always been how the plan for the territory outside the municipality's corporate limits could be enforced. There are two principal methods of enforcing a city or village plan. First, under Section 9 of the Act, the municipal council may not authorize the construction of any street, park or public building, etc., in a planned section without approval of the planning commission, but the city council has power to overrule the disapproval of the planning commission by a two-thirds vote.

Secondly, Section 13 provides that once a master plan has been filed with the county registrar of deeds, no plats of a subdivision of land within the planned area may be filed or recorded until it has been approved by the planning commission. Sections 14 and 15 give the planning commission rather extensive authority in connection with their approval of plats. These later provisions could be of importance in controlling the subdivision of land within the area immediately adjacent to the city or village.

Supplementary to the provisions contained in the City and Village Planning Act is a provision contained in the Home Rule Act of 1909, Section 4: "Each city may in its charter provide for a plan of streets and alleys within and for a distance of not more than 3 miles beyond its limits.".

This section would appear both to restrict the limits to which a master plan could extend and to provide additional authority with respect to streets and alleys. However, the weakness of this provision lies in the absence of any effective enforcement provisions. For all practical purposes, therefore, this section is disregarded except to the extent that it provides a distance limitation on the discretionary planning area contemplated by Section 6 of the City and Village Planning Act.

Districts--Zoning

The zoning of counties and townships are as established under the Public Acts of Michigan which authorize the

respective Boards of Supervisors to provide for the establishment of districts within which the use of land and structures may be regulated. Land use control in the Upper Peninsula region is largely directed toward the purpose of regulating large land areas best suited for farming, forestry and recreation. Additional primary zoning considerations include the judicious expenditure of funds for public improvement, facilitating adequate provisions for transportation, and conserving and developing the natural resource base.

Throughout unincorporated zoned areas, ordinances appear to be in various stages of enforcement. While each ordinance specifically requires the uses of land to conform to the purposes and guidelines set forth for the respective districts, planning manuals do make reference to existing conflicts of land use and development patterns. Land use inconsistent with established zoning guidelines appears to be the result of fractional settlement patterns existing prior to subsequent district organizations.

Zoning Board Supervisors require that the expenditure of public funds for roads, services and other public improvements (including the activities of state and federal agencies) be restricted to and conform with the purposes of each ordinance. All other property uses are considered prohibited except those that the Boards of Supervisors, by resolution, may determine to be consistent with purposes established for the respective districts.

While some counties of the Upper Peninsula region have few or no zoning regulations in effect, those counties and townships now using zoning controls differ somewhat in their primary land use classifications. Varying descriptions, however, are an expression of the dominant land use characteristics peculiar to areas within the respective counties. The following lists synthesize all existing zoning district classifications into common reference for simplicity in mapping. Reclassifications presented herein are based on Primary Property Uses Generally Permitted Without Special Board Approval (left column), and correlate directly to Zoning District Classifications Defined by Ordinance, (right column). Primary Use Classifications are numbered and are shown on the Governmental Data Map. In areas where zoning is not indicated, zoning does not exist.

Zoning: Primary Property Uses Generally Permitted Without Special Approval	Zoning District Classification Defined by Ordinance BARAGA COUNTY
Primary Use Classification	
1 RESIDENTIAL	
Single family detatched/duplex Recreation, parks Schools & churches Home business	R-1A One Family Residential R-1B General Residential RR Recreation Residential SR Scenic Resource District
2 RESIDENTIAL/COMMERCIAL	
All uses permitted in RESIDENTIAL Multiple dwellings Mobile homes Limited retail/commercial/ professional services	R-1C General Residential
3 COMMERICAL	
Retail/commercial professional services Wholesaling	B-1 Business
4 INDUSTRIAL	
Manufacturing Wholesaling Warehousing	I-1 Industrial
5 AGRICULTURAL	
Farming, lumbering Harvesting native or wild crops Mineral extraction Recreation Seasonal/residential	FR Forest Resource FF Farm and Forest
6 UNRESTRICTED	
Any land use not in conflict with the law	
7 INDIAN RESERVATION	

Zoning: Primary Property Uses Generally Permitted Without Special Approval	Zoning District Classification Defined by Ordinance DELTA COUNTY	
Primary Use Classification		
1 RESIDENTIAL	R-1	Residential District
Single family detatched/duplex	PL	Preserve Area
Recreation, parks	RP	Recreation Lands
Schools & churches	RR	Rural Residential
Home business	LS/R	Lakeshore Residential
2 RESIDENTIAL/COMMERCIAL		
All uses permitted in RESIDENTIAL	R-2	Single Family Dwelling & Mobile Home Residential
Multiple dwellings		
Mobile homes	R-3	Medium Density Residential
Limited retail/commercial/ Professional services	R-4	Mobile Home Parks
3 COMMERCIAL		
Retail/commercial/professional services	C-1	Recreation Commercial
	C-2	General Commercial
	C-3	Light Industrial & Commercial
4 INDUSTRIAL		
Manufacturing	I	Industrial
Wholesaling		
Warehousing		
5 AGRICULTURAL		
Farming, lumbering	A-P	Agriculture
Harvesting native or wild crops	T-P	Timber Production
Mineral extraction	O-S	Open Space
Recreation		
Seasonal/residential		
6 UNRESTRICTED		
Any land use not in conflict with the law		

Zoning: Primary Property Uses Generally Permitted Without Special Approval	Zoning District Classification Defined by Ordinance DICKINSON COUNTY
Primary Use Classification	
1 RESIDENTIAL	
Single family detatched/duplex Recreation, parks Schools & churches Home business	R-1 One & Two Family Residential R-M Multiple Family Residential R-R Recreation Residential S-R Scenic Resource
2 RESIDENTIAL/COMMERCIAL	
All uses permitted in RESIDENTIAL Multiple dwellings Mobile homes Limited retail/commercial/ professional services	
3 COMMERCIAL	
Retail/commercial/professional services Wholesaling	B-1 Local Tourist Business B-2 General Business
4 INDUSTRIAL	
Manufacturing Wholesaling Warehousing	I Industrial
5 AGRICULTURAL	
Farming, lumbering Harvesting native or wild crops Mineral extraction Recreation Seasonal/residential	F-F Farm & Forest
6 UNRESTRICTED	
Any land use not in conflict with the law	

Zoning: Primary Property Uses Generally Permitted Without Special Approval	Zoning District Classification Defined By Ordinance IRON COUNTY			
	Bates Township		Iron River Township & Stambaugh Township	
Primary Use Classification				
1 RESIDENTIAL				
Single family detatched/duplex Recreation, parks Schools & churches Home business	R-1	Suburban Residential & Restricted Commercial	A	Suburb-Suburban Residential
	L-1	Lake Areas		
2 RESIDENTIAL/COMMERICAL				
All uses permitted in RESIDENTIAL Multiple dwellings Mobile homes Limited retail/commercial/ professional services	R-2	Agricultural Rural Residential & Restricted Commerical		
3 COMMERCIAL				
Retail/commercial/professional services Wholesaling	C	Commercial	B-1	Business
4 INDUSTRIAL				
Manufacturing Wholesaling Warehousing	I	Industrial	D-1	Industry
5 AGRICULTURAL				
Farming, lumbering Harvesting native or wild crops Mineral extraction Recreation Seasonal/residential	L-2	Lake Areas	A-C	Agricultural & Conservation
	S-1	River Areas		
	R-F	Recreation & Forestry	A-R	Agricultural & Rural Residential
			A-A	Agricultural & Residential
6 UNRESTRICTED				
Any land use not in conflict with the law				

Zoning: Primary Property Uses Generally Permitted Without Special Approval	Zoning District Classification Defined By Ordinance MARQUETTE COUNTY	
Primary Use Classification	Chocolay Township	Forsyth Township
1 RESIDENTIAL		
Single family detatched/duplex Recreation, parks Schools & churches Home business	One Family Residence Multiple Family Residence	R-1 Family Residential District RR-1 Rural Residential District
2 RESIDENTIAL/COMMERCIAL		
All uses permitted in RESIDENTIAL Multiple dwellings Mobile homes Limited retail/commercial/professional services	General Residence Mobile Home Recreation & Resort	RM-1 Multiple Family Residential District MH-1 Mobile Home Residential District
3 COMMERCIAL		
Retail/commercial/professional services Wholesaling	Restricted Business "A" Restricted Business "B" General Business	C-1 Commercial and Proposed Commercial District
4 INDUSTRIAL		
Manufacturing Wholesaling Warehousing	Industrial	I-1 Industrial District
5 AGRICULTURAL		
Farming, lumbering Harvesting native or wild crops Mineral extraction Recreation Seasonal/residential	Farm & Forestry	FR-1 Forest Recreational District
6 UNRESTRICTED		
Any land use not in conflict with the law		

Zoning: Primary Property Uses Generally Permitted Without Special Approval

Zoning District Classification Defined By Ordinance

MARQUETTE COUNTY (Continued)

Primary Use Classification	Ishpeming Township	Marquette & Negaunee Townships
1 RESIDENTIAL		
Single family detatched/duplex Recreation, parks Schools & churches Home business	R-1 Residential	R-1,R-2,R-3 One Family Residential R-M Multiple Family Residential
2 RESIDENTIAL/COMMERCIAL		
All uses permitted in RESIDENTIAL Multiple dwellings Mobile homes Limited retail/commercial/ professional services		R-T Residential Transition M-H Mobile Home
3 COMMERCIAL		
Retail/commercial/professional services Wholesaling	C-1 Commercial	B-1 Restricted Business B-2 General Business
4 INDUSTRIAL		
Manufacturing Wholesaling Warehousing	I-1 Industrial	I Industrial
5 AGRICULTURAL		
Farming, lumbering Harvesting native or wild crops Mineral extraction Recreation Seasonal/residential	F-R Forestry & Recreation	F Forestry S-R Scenic Resource
6 UNRESTRICTED		
Any land use not in conflict with the law		

Zoning: Primary Property Uses Generally Permitted Without Special Approval	Zoning District Classification Defined By Ordinance MARQUETTE COUNTY (Continued)		
Primary Use Classification	Powell Township*	Richmond Township	
1 RESIDENTIAL			
Single family detatched/duplex Recreation, parks Schools & churches Home business	Residential	RR-1 R-1	Rural Residential District Residential District
2 RESIDENTIAL/COMMERCIAL			
All uses permitted in RESIDENTIAL Multiple dwellings Mobile homes Limited retail/commercial/ professional services	Residential Business		
3 COMMERCIAL			
Retail/commercial/professional services Wholesaling		C-1	Commercial District
4 INDUSTRIAL			
Manufacturing Wholesaling Warehousing		I-1	Industrial District
5 AGRICULTURAL			
Farming, lumbering Harvesting native or wild crops Mineral extraction Recreation Seasonal/residential	Forest & Recreation	FR-1	Forest-Recreational District
6 UNRESTRICTED			
Any land use not in conflict with the law			

* Interim Zoning Ordinance

Zoning: Primary Property Uses Generally Permitted Without Special Approval

Zoning District Classification Defined By Ordinance
MARQUETTE COUNTY (Continued)

Primary Use Classification	Sands Township
1 RESIDENTIAL	
Single family detatched/duplex Recreation, parks Schools & churches Home business	Residential
2 RESIDENTIAL/COMMERCIAL	
All uses permitted in RESIDENTIAL Multiple dwellings Mobile homes Limited retail/commercial/ professional services	Commercial-Residential
3 COMMERCIAL	
Retail/commercial/professional services Wholesaling	
4 INDUSTRIAL	
Manufacturing Wholesaling Warehousing	
5 AGRICULTURAL	
Farming, lumbering Harvesting native or wild crops Mineral extraction Recreation Seasonal/residential	Farm & Forestry
6 UNRESTRICTED	
Any land use not in conflict with the law	

Zoning: Primary Property Uses Generally Permitted Without Special Approval	Zoning District Classification Defined by Ordinance MENOMINEE COUNTY
Primary Use Classification	
1 RESIDENTIAL	
Single family detatched/duplex Recreation, parks Schools & churches Home business	
2 RESIDENTIAL/COMMERCIAL	
All uses permitted in RESIDENTIAL Multiple dwellings Mobile homes Limited retail/commercial/ professional services	Recreation & Residential
3 COMMERCIAL	
Retail/commercial/professional services Wholesaling	
4 INDUSTRIAL	
Manufacturing Wholesaling Warehousing	
5 AGRICULTURAL	
Farming, lumbering Harvesting native or wild crops Mineral extraction Recreation Seasonal/residential	Forestry & Recreation
6 UNRESTRICTED	
Any land use not in conflict with the law	Unrestricted

Districts--Indian Reservation

The L'Anse Indian Reservation is a 13,753-acre tract of land in Baraga County held under the jurisdiction of the U. S. Department of the Interior, Bureau of Indian Affairs, Great Lakes Agency. Established under the treaty of 1854 (10 stat. 1109) with the Chippewa Indians, this land (now referred to as the Keweenaw Bay Community) is held for the ownership and residence of the L'Anse, Lac Vieux Desert, and Ontonagon bands of the Chippewa Nation.

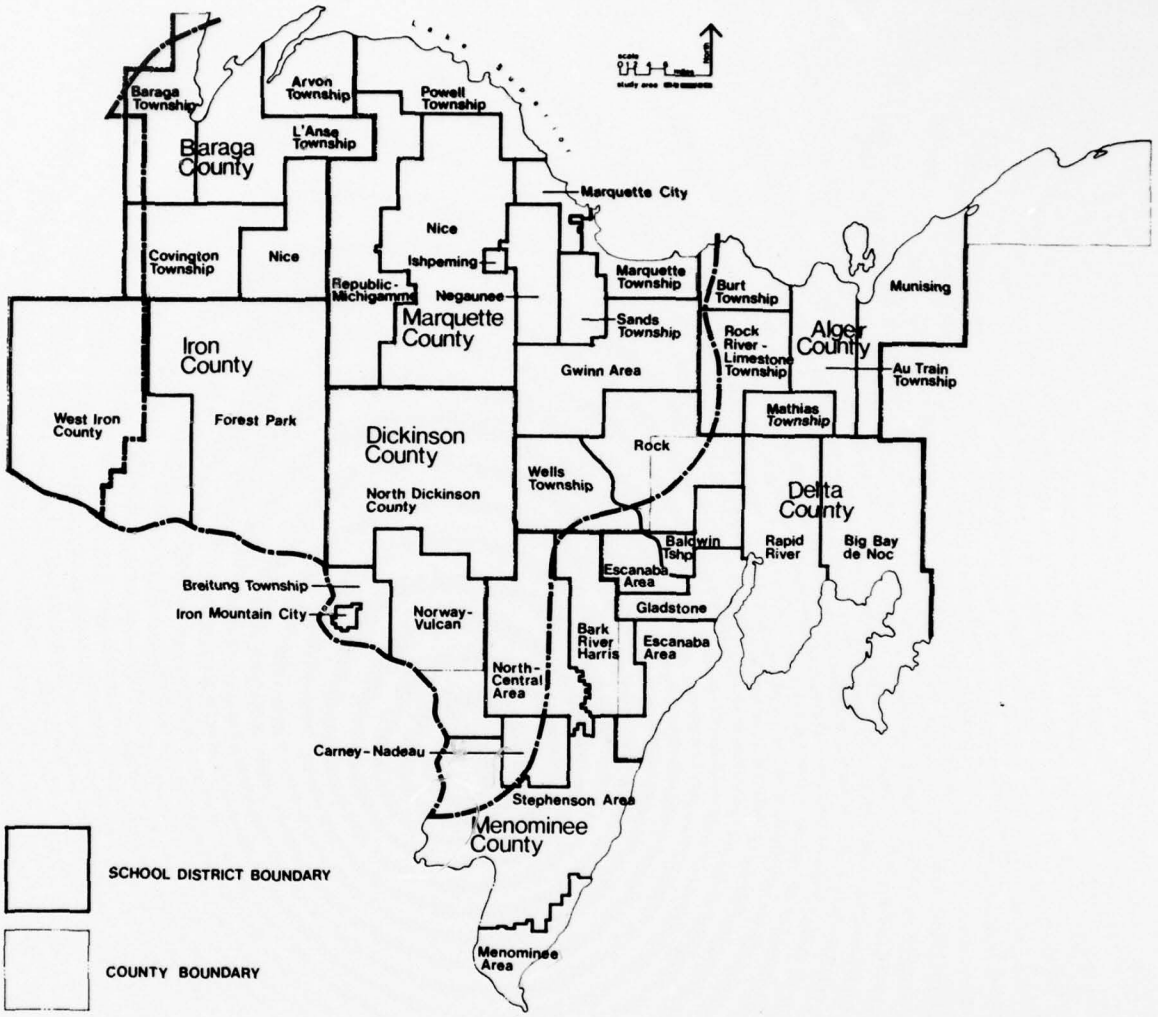
The reservation is composed of two districts, Baraga and L'Anse, located on State Highway 41 on the shores of Keweenaw Bay. Portions of the land within these villages have been sold out of the reservation and are not directly under the control of the tribal council. The reservation governing body is a tribal council consisting of twelve councilmen elected for a three-year term. All council decisions relating to land use are subject to the approval of the Secretary of the Interior.

The policy for the leasing of a right-of-way through an Indian reservation is stated in the Bureau of Indian Affairs Code of Federal Regulations #25. (See Appendix A.) The tribal council is enabled to grant rights-of-way across land "for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities."

Districts--School

The public educational system as defined in the Michigan Constitution of 1835 provided for the establishment of school districts in each township (see Figure 1). These districts are authorized to levy taxes for the support of schools. Reorganization studies of these districts were required under Act 289 of the Michigan Legislature Public Acts of 1964. As a result of these studies, less populated school districts were combined with adjacent districts to provide more complete and efficient programs. The principal justification for the configuration of school districts is to provide an equalized tax base and to facilitate communication between administrators and the community.

SCHOOL DISTRICTS



Source: Michigan Department of Education

Figure 1

RELATIONSHIP TO OTHER DATA

Because governmental units and agencies working within the Study Area originate at Federal, State and local levels, a complex pattern of jurisdiction, control and interdependent spheres of influence take place. Inherent in this process is the fact that much overlap exists in decisions affecting land use, community development and protection of the environment. The establishment of regional planning and development districts (WUPPDR, CUPPAD) represents an attempt on the part of government and a concerned citizenry toward consolidating land use and community planning on a broad scale. The data presented herein are generally related to current governmental trends within the Study Area which form the legal framework for existing physical characteristics. In this sense the data reflect land use considerations.

VALIDITY

Information relating to Federal and State governmental history, jurisdiction and current programs was gained directly through printed matter produced by the respective agencies described. Supplementary information and data relating to current programs within the planning districts was secured through staff contact.

Information concerning local governmental legal status and the jurisdiction of each governmental subdivision was obtained from official State publications. Data relevant to local governmental trends were secured primarily through county zoning commissions and WUPPDR and CUPPAD reports. Information on school districts was provided by the Michigan Department of Education.

State and county highway maps, county planning maps and detailed State Department of Natural Resources land ownership maps were utilized in delineating the geographic extent of the various governmental jurisdictions and subdivisions. Backup verification was provided by USGS maps and aerial photography.

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1974, Iron County Roads Map
1973, Baraga County Highway Map, 1" = 1 mile
1971, Map of Marquette County, Michigan, 3/4" = 1 mile
1973, Map of Menominee County, Michigan, 1/2" = 1 mile

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APPENDIX A

CODE OF REGULATIONS

BUREAU OF INDIAN AFFAIRS

(c) Any unusual disease conditions beyond the control measures provided herein shall be immediately reported by the District Grazing Committee to the Chairman of the Navajo Tribal Council and the Superintendent who shall attempt to obtain specialists and provide emergency funds to control and suppress the disease.

§ 152.16 Fences.

Favorable recommendation from the District Grazing Committee and a written authorization from the Superintendent or his authorized representative must be secured before any fences may be constructed in non-agricultural areas. The District Grazing Committee shall recommend to the Superintendent the removal of unauthorized existing fences, or fences enclosing Demonstration Areas no longer used as such, if it is determined that such fences interfere with proper range management or an equitable distribution of range privileges. All enclosures fenced for the purpose of protecting agricultural land shall be kept to a size commensurate with the needs for protection of agricultural land and must be enclosed by legal four strand barbed wire fence or the equivalent.

§ 152.17 Construction near permanent livestock water developments.

(a) The District Grazing Committee shall regulate the construction of all dwellings, corrals and other structures within one-half mile of Government or Navajo Tribal developed permanent livestock waters such as springs, wells, and charcos or deep reservoirs.

(b) A written authorization from the District Grazing Committee must be secured before any dwellings, corrals, or other structures may be constructed within one-half mile of Government or Navajo Tribal developed springs, wells and charcos or deep reservoirs.

(c) No sewage disposal system shall be authorized to be built which will drain into springs or stream channels in such a manner that it would cause contamination of waters being used for livestock or human consumption.

SUBCHAPTER O—RIGHTS-OF-WAY—ROADS

PART 161—RIGHTS-OF-WAY OVER INDIAN LANDS

Sec.

AUTHORITY: The provisions of this Part 161 issued under 5 U.S.C. 301, 62 Stat. 17 (25 U.S.C. 323-328), and other acts cited in the text.

SOURCE: The provisions of this Part 161 appear at 33 F.R. 19803, Dec. 27, 1968, unless otherwise noted.

§ 161.1 Definitions.

As used in this Part 161:

(a) "Secretary" means the Secretary of the Interior or his authorized representative acting under delegated authority. Before proceeding under these regulations anyone desiring a right-of-way should inquire at the Indian Agency, Area Field Office, or other office of the Bureau of Indian Affairs having immediate supervision over the lands involved to determine the identity of the authorized representative of the Secretary for the purposes of this Part 161.

(b) "Individually owned land" means land or any interest therein held in

trust by the United States for the benefit of individual Indians and land or any interest therein held by individual Indians subject to Federal restrictions against alienation or encumbrance.

(c) "Tribe" means a tribe, band, nation, community, group or pueblo of Indians.

(d) "Tribal land" means land or any interest therein, title to which is held by the United States in trust for a tribe, or title to which is held by any tribe subject to Federal restrictions against alienation or encumbrance, and includes such land reserved for Indian Bureau administrative purposes. The term also includes lands held by the United States in trust for an Indian corporation chartered under section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 477).

(e) "Government owned land" means land owned by the United States and under the jurisdiction of the Secretary which was acquired or set aside for the use and benefit of Indians and not included in the definitions set out in paragraphs (b) and (d) of this section.

§ 161.2 Purpose and scope of regulations.

(a) Except as otherwise provided in § 1.2 of this chapter, the regulations in this Part 161 prescribe the procedures, terms and conditions under which rights-of-way over and across tribal land, individually owned land and Government owned land may be granted.

(b) Appeals from administrative action taken under the regulations in this Part 161 shall be made in accordance with Part 2 of this chapter.

(c) The regulations contained in this Part 161 do not cover the granting of rights-of-way upon tribal lands within a reservation for the purpose of constructing, operating, or maintaining dams, water conduits, reservoirs, powerhouses, transmission lines or other works which shall constitute a part of any project for which a license is required by the Federal Power Act. The Federal Power Act provides that any license which shall be issued to use tribal lands within a reservation shall be subject to and contain such conditions as the Secretary of the Interior shall deem necessary for the adequate protection and utilization of such lands. (16 U.S.C. 797(e)). In the case of tribal lands belonging to a tribe organized under the Act of June 18, 1934 (48 Stat. 984), the Federal Power Act requires that annual charges for the use of such tribal lands under any license issued by the Federal Power Commission shall be subject to the approval of the tribe (16 U.S.C. 803(e)).

§ 161.3 Consent of landowners to grants of rights-of-way.

(a) No right-of-way shall be granted over and across any tribal land, nor shall any permission to survey be issued with respect to any such lands, without the prior written consent of the tribe.

(b) Except as provided in paragraph (c) of this section, no right-of-way shall be granted over and across any individually owned lands, nor shall any permission to survey be issued with respect to any such lands, without the prior written consent of the owner or owners of such lands and the approval of the Secretary.

(c) The Secretary may issue permission to survey with respect to, and he may grant rights-of-way over and across individually owned lands without the consent of the individual Indian owners when (1) the individual owner of the land or of an interest therein is a minor or a person non compos mentis, and the Secretary finds that such grant will cause no substantial injury to the land or the owner, which cannot be adequately compensated for by monetary damages; (2) the land is owned by more than one person, and the owners or owner of a majority of the interests therein consent to the grant; (3) the whereabouts of the owner of the land or an interest therein are unknown, and the owners or owner of any interests therein whose whereabouts are known, or a majority thereof, consent to the grant; (4) the heirs or devisees of a deceased owner of the land or an interest therein have not been determined, and the Secretary finds that the grant will cause no substantial injury to the land or any owner thereof; (5) the owners of interests in the land are so numerous that the Secretary finds it would be impracticable to obtain their consent, and also finds that the grant will cause no substantial injury to the land or any owner thereof.

[36 F.R. 14183, July 31, 1971]

§ 161.4 Permission to survey.

Anyone desiring to obtain permission to survey for a right-of-way across individually owned, tribal or Government owned land must file a written application therefor with the Secretary. The application shall adequately describe the proposed project, including the purpose

and general location, and it shall be accompanied by the written consents required by § 161.3, by satisfactory evidence of the good faith and financial responsibility of the applicant, and by a check or money order of sufficient amount to cover twice the estimated damages which may be sustained as a result of the survey. With the approval of the Secretary, a surety bond may be substituted in lieu of a check or money order accompanying an application, provided the company issuing the surety bond is licensed to do business in the State where the land to be surveyed is located. The application shall contain an agreement to indemnify the United States, the owners of the land, and occupants of the land, against liability for loss of life, personal injury and property damage occurring because of survey activities and caused by the applicant, his employees, contractors and their employees, or subcontractors and their employees. When the applicant is an agency or instrumentality of the Federal or a State Government and is prohibited by law from depositing estimated damages in advance or agreeing to indemnification, the requirement for such a deposit and indemnification may be waived providing the applicant agrees in writing to pay damages promptly when they are sustained. An application filed by a corporation must be accompanied by a copy of its charter or articles of incorporation duly certified by the proper State official of the State where the corporation was organized, and a certified copy of the resolution or bylaws of the corporation authorizing the filing of the application. When the land covered by the application is located in a State other than that in which the applicant was incorporated, it must also submit a certificate of the proper State official that the applicant is authorized to do business in the State where the land is located. An application filed by an unincorporated partnership or association must be accompanied by a certified copy of the articles of partnership or association, or if there be none, this fact must be stated over the signature of each member of the partnership or association. If the applicant has previously filed with the Secretary an application accompanied by the evidence required in this section, a reference to the date and place of such filing, accompanied by proof of current financial responsibility and good faith, will be sufficient. Upon receipt of an application made in compliance with the regulations of this Part 161, the Secretary may grant the applicant written permission to survey.

§ 161.5 Application for right-of-way.

Written application, in duplicate, for a right-of-way shall be filed with the Secretary. The application shall cite the statute or statutes under which it is filed and the width and length of the desired right-of-way, and shall be accompanied by satisfactory evidence of the good faith and financial responsibility of the applicant. An application filed by a corporation must be accompanied by a copy of its charter or articles of incorporation duly certified by the proper State official of the State where the corporation was organized, and a certified copy of the resolution or bylaws of the corporation authorizing the filing of the application. When the land covered by the application is located in a State other than that in which the applicant was incorporated, it must also submit a certificate of the proper State official that the applicant is authorized to do business in the State where the land is located. An application filed by an unincorporated partnership or association must be accompanied by a certified copy of the articles of partnership or association, or if there be none, this fact must be stated over the signature of each member of the partnership or association. If the applicant has previously filed with the Secretary an application accompanied by the evidence required by this section, a reference to the date and place of such filing will be sufficient. Except as otherwise provided in this section, the application shall be accompanied by a duly executed stipulation, in duplicate, expressly agreeing to the following:

(a) To construct and maintain the right-of-way in a workmanlike manner.

(b) To pay promptly all damages and compensation, in addition to the deposit made pursuant to § 161.4, determined by the Secretary to be due the landowners and authorized users and occupants of the land on account of the survey, granting, construction and maintenance of the right-of-way.

(c) To indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.

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(d) To restore the lands as nearly as may be possible to their original condition upon the completion of construction to the extent compatible with the purpose for which the right-of-way was granted.

(e) To clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project.

(f) To take soil and resource conservation and protection measures, including weed control, on the land covered by the right-of-way.

(g) To do everything reasonably within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.

(h) To build and repair such roads, fences, and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.

(i) That upon revocation or termination of the right-of-way, the applicant shall, so far as is reasonably possible, restore the land to its original condition.

(j) To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and of the names and addresses of its principal officers.

(k) That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.

When the applicant is the U.S. Government or a State Government or an instrumentality thereof and is prohibited by law from executing any of the above stipulations, the Secretary may waive the requirement that the applicant agree to any stipulations so prohibited.

§ 161.6 Maps.

(a) Each application for a right-of-way shall be accompanied by maps of definite location consisting of an original on tracing linen or other permanent and reproducible material and two reproductions thereof. The field notes shall accompany the application, as provided in § 161.7. The width of the right-of-way shall be clearly shown on the maps.

(b) A separate map shall be filed for each section of 20 miles of right-of-way, but the map of the last section may include any excess of 10 miles or less.

(c) The scale of maps showing the line of route normally should be 2,000 feet to an inch. The maps may, however, be drawn to a larger scale when necessary and when an increase in scale cannot be avoided through the use of separate field notes, but the scale must not be increased to such extent as to make the maps too cumbersome for convenient handling and filing.

(d) The maps shall show the allotment number of each tract of allotted land, and shall clearly designate each tract of tribal land affected, together with the sections, townships, and ranges in which the lands crossed by the right-of-way are situated.

§ 161.7 Field notes.

Field notes of the survey shall appear along the line indicating the right-of-way on the maps, unless the maps would be too crowded thereby to be easily legible, in which event the field notes may be filed separately on tracing linen in such form that they may be folded readily for filing. Where field notes are placed on separate tracing linen, it will be necessary to place on the maps only a sufficient number of station numbers so as to make it convenient to follow the field notes. The field notes shall be typewritten. Whether endorsed on the maps or filed separately, the field notes shall be sufficiently complete so as to permit the line indicating the right-of-way to be readily retraced on the ground from the notes. They shall show whether the line was run on true or magnetic bearings, and, in the latter case, the variation of the needle and date of determination must be stated. One or more bearings (or angular connections with public survey lines) must be given. The 10-mile sections must be indicated and numbered on all lines of road submitted.

§ 161.8 Public survey.

(a) The termini of the line of route shall be fixed by reference of course and distance to the nearest existing corner of the public survey. The maps, as well as the engineer's affidavit and the certificate, shall show these connections.

(b) When either terminal of the line of route is upon unsurveyed land, it must be connected by traverse with an established corner of the public survey if not more than 6 miles distant from it, and the single bearing and distance from the terminal point to the corner computed and noted on the maps, in the engineer's affidavit, and in the certificate. The notes and all data for the computation of the traverse must be given.

§ 161.9 Connection with natural objects.

When the distance to an established corner of the public survey is more than 6 miles, this connection will be made with a natural object or a permanent monument which can be readily found and recognized, and which will fix and perpetuate the position of the terminal point. The maps must show the position of such mark, and course and distance to the terminus. There must be given an accurate description of the mark and full data concerning the traverse, and the engineer's affidavit and the certificate on the maps must state the connections.

§ 161.10 Township and section lines.

Whenever the line of survey crosses a township or section line of the public survey, the distance to the nearest existing corner shall be noted. The maps shall show these distances and the station numbers at the points of intersections. The field notes shall show these distances and the station numbers.

§ 161.11 Affidavit and certificate.

(a) There shall be subscribed on the maps of definite location an affidavit executed by the engineer who made the survey and a certificate executed by the applicant, both certifying to the accuracy of the survey and maps and both designating by termini and length in miles and decimals, the line of route for which the right-of-way application is made.

(b) Maps covering roads built by the Bureau of Indian Affairs which are to be transferred to a county or State government shall contain an affidavit as to the accuracy of the survey, executed by the Bureau highway engineer in charge of road construction, and a certificate by the State or county engineer or other authorized State or county officer accepting the right-of-way and stating that he is satisfied as to the accuracy of the survey and maps.

§ 161.12 Consideration for right-of-way grants.

Except when waived in writing by the landowners or their representatives as defined in § 161.3 and approved by the Secretary, the consideration for any right-of-way granted or renewed under this Part 161 shall be not less than the appraised fair market value of the rights granted, plus severance damages, if any, to the remaining estate.

§ 161.13 Other damages.

In addition to the consideration for a grant of right-of-way provided for by the provisions of § 161.12, the applicant for a right-of-way will be required to pay all damages incident to the survey of the right-of-way or incident to the construction or maintenance of the facility for which the right-of-way is granted.

§ 161.14 Deposit and disbursement of consideration and damages.

At the time of filing an application for right-of-way, the applicant must deposit with the Secretary the total estimated consideration and damages, which shall include consideration for the right-of-way, severance damages, damages caused during the survey, and estimated damages to result from construction less any deposit previously made under § 161.4. In no case shall the amount deposited as consideration for the right-of-way over any parcel be less than the amount specified in the consent covering that parcel. If in reviewing the application, the Secretary determines that the amounts deposited are inadequate to compensate the owners, the applicant shall increase the deposit to an amount determined by the Secretary to be adequate. The amounts so deposited shall be held in a "special deposit" account for distribution to or for the account of the landowners and authorized users and occupants of the land. Amounts deposited to cover damages resulting from survey and construction may be disbursed after the damages have been sustained. Amounts deposited to cover consideration for the right-of-way and severance damages shall be disbursed upon the granting of the right-of-way. Any part of the deposit which is not required

for disbursement as aforesaid shall be refunded to the applicant promptly following receipt of the affidavit of completion of construction filed pursuant to § 161.16.

§ 161.15 Action on application.

Upon satisfactory compliance with the regulations in this Part 161, the Secretary is authorized to grant the right-of-way by issuance of a conveyance instrument in the form approved by the Secretary. Such instrument shall incorporate all conditions or restrictions set out in the consents obtained pursuant to § 161.3. A copy of such instrument shall be promptly delivered to the applicant and thereafter the applicant may proceed with the construction work. Maps of definite location may be attached to and incorporated into the conveyance document by reference. In the discretion of the Secretary, one conveyance document may be issued covering all of the tracts of land traversed by the right-of-way, or separate conveyances may be made covering one or several tracts included in the application. A duplicate original copy of the conveyance instrument, permanent and reproducible maps, a copy of the application and stipulations, together with any other pertinent documents shall be transmitted by the Secretary to the office of record for land documents affecting the land covered by the right-of-way, where they will be recorded and filed.

§ 161.16 Affidavit of completion.

Upon the completion of the construction of any right-of-way, the applicant shall promptly file with the Secretary an affidavit of completion, in duplicate, executed by the engineer and certified by the applicant. The Secretary shall transmit one copy of the affidavit to the office of record mentioned in § 161.15. Failure to file an affidavit in accordance with this section shall subject the right-of-way to cancellation in accordance with § 161.20.

§ 161.17 Change of location.

If any change from the location described in the conveyance instrument is found to be necessary on account of engineering difficulties or otherwise, amended maps and field notes of the new location shall be filed, and a right-of-way for such new route or location shall be subject to consent, approval, the ascertainment of damages, and the payment thereof, in all respects as in the case of the original location. Before a revised conveyance instrument is issued, the applicant shall execute such instruments deemed necessary by the Secretary extinguishing the right-of-way at the original location. Such instruments shall be transmitted by the Secretary to the office of record mentioned in § 161.15 for recording and filing.

§ 161.18 Tenure of approved right-of-way grants.

All rights-of-way granted under the regulations in this Part 161 shall be in the nature of easements for the periods stated in the conveyance instrument. Except as otherwise determined by the Secretary and stated in the conveyance instrument, rights-of-way granted under the Act of February 5, 1948 (62 Stat. 17; 25 U.S.C. 323–328) for railroads, telephone lines, telegraph lines, public roads, and highways, public sanitary and storm sewer lines including sewage disposal and treatment plants, water control and use projects (including but not limited to dams, reservoirs, flowage easements, ditches, and canals), oil, gas and public utility water pipelines (including pumping stations and appurtenant facilities), electric power projects, generating plants, switchyards, electric transmission and distribution lines (including poles, towers and appurtenant facilities), and for service roads and trails essential to be without limitation as to term of years; whereas, rights-of-way for all other purposes shall be for a period of not to exceed 50 years, as determined by the Secretary and stated in the conveyance any of the aforestated use purposes, may instrument.

§ 161.19 Renewal of right-of-way grants.

On or before the expiration date of any right-of-way heretofore or hereafter granted for a limited term of years, an application may be submitted for a renewal of the grant. If the renewal involves no change in the location or status of the original right-of-way grant, the applicant may file with his application

a certificate under oath setting out this fact, and the Secretary, with the consent required by § 161.3, may thereupon extend the grant for a like term of years, upon the payment of consideration as set forth in § 161.12. If any change in the size, type, or location of the right-of-way is involved, the application for renewal shall be treated and handled as in the case of an original application for a right-of-way.

§ 161.20 Termination of right-of-way grants.

All rights-of-way granted under the regulations in this part shall be terminable in whole or in part upon 30 days written notice from the Secretary mailed to the grantee at its latest address furnished in accordance with § 161.5(j), for any of the following causes:

(a) Failure to comply with any term or condition of the grant or the applicable regulations;

(b) A nonuse of the right-of-way for a consecutive 2-year period for the purpose for which it was granted;

(c) An abandonment of the right-of-way.

If within the 30-day notice period the grantee fails to correct the basis for termination, the Secretary shall issue an appropriate instrument terminating the right-of-way. Such instrument shall be transmitted by the Secretary to the office of record mentioned in § 161.15 for recording and filing.

§ 161.21 Condemnation actions involving individually owned lands.

The facts relating to any condemnation action to obtain a right-of-way over individually owned lands shall be reported immediately by officials of the Bureau of Indian Affairs having knowledge of such facts to appropriate officials of the Interior Department so that action may be taken to safeguard the interests of the Indians.

§ 161.22 Service lines.

(a) An agreement shall be executed by and between the landowner or a legally authorized occupant or user of individually owned land and the applicant before any work by the applicant may be undertaken to construct a service line across such land. Such a service line shall be limited in the case of power lines to a voltage of 14.5 kv. or less except lines to serve irrigation pumps and commercial and industrial uses which shall be limited to a voltage not to exceed 34.5 kv. A service line shall be for the sole purpose of supplying the individual owner or authorized occupant or user of land, including schools and churches, with telephone, water, electric power, gas, and other utilities for use by such owner, occupant, or user of the land on the premises.

(b) A similar agreement to that required in paragraph (a) of this section shall be executed by the tribe or legally authorized occupant or user of tribal land and the applicant before any work by the applicant may be undertaken for the construction of a service line across tribal land. A service line shall be for the sole purpose of supplying an occupant or user of tribal land with any of the utilities specified in paragraph (a) of this section. No agreement under this paragraph shall be valid unless its execution shall have been duly authorized in advance of construction by the governing body of the Indian tribe whose land is affected, unless the contract under which the occupant or user of the land obtained his rights specifically authorizes such occupant or user to enter into service agreements for utilities without further tribal consent.

(c) In order to encourage the use of telephone, water, electric power, gas and other utilities and to facilitate the extension of these modern conveniences to sparsely settled Indian areas without undue costs the agreement referred to in paragraph (a) of this section shall only be required to include or have appended thereto, a plat or diagram showing with particularity the location, size, and extent of the line. When the plat or diagram is placed on a separate sheet it shall bear the signature of the parties. In case of tribal land, the agreement shall be accompanied by a certified copy of the tribal authorization when required.

(d) An executed copy of the agreement, together with a plat or diagram, and in the case of tribal land, an authenticated copy of the tribal authorization, when

required, shall be filed with the Secretary within 30 days after the date of its execution. Failure to meet this requirement may result in the removal of improvements placed on the land at the expense of the party responsible for the placing of such improvements and subject such party to the payment of damages caused by his unauthorized act.

§ 161.23 Railroads.

(a) The Act of March 2, 1899 (30 Stat. 990), as amended by the Acts of February 28, 1902 (32 Stat. 50), June 21, 1906 (34 Stat. 330), and June 25, 1910 (36 Stat. 859; 25 U.S.C. 312–318); the Act of March 3, 1875 (18 Stat. 482; 43 U.S.C. 934); and the Act of March 3, 1909 (35 Stat. 781), as amended by the Act of May 6, 1910 (36 Stat. 349; 25 U.S.C. 320), authorize grants of rights-of-way across tribal, individually owned and Government-owned land, except in the State of Oklahoma, for railroads, station buildings, depots, machine shops, side tracks, turnouts, and water stations; for reservoirs, material or ballast pits needed in the construction, repair, and maintenance of railroads; and for the planting and growing of trees to protect railroad lines. Rights-of-way granted under the above acts shall be subject to the provisions of this section as well as other pertinent sections of this Part 161. Except when otherwise determined by the Secretary, rights-of-way for the above purposes granted under the Act of February 5, 1948 (62 Stat. 17; 25 U.S.C. 323–328), shall also be subject to the provisions of this section.

(b) Rights-of-way for railroads shall not exceed 50 feet in width on each side of the centerline of the road, except where there are heavy cuts and fills, when they shall not exceed 100 feet in width on each side of the road. The right-of-way may include grounds adjacent to the line for station buildings, depots, machine shops, side tracks, turnouts, and water stations, not to exceed 200 feet in width by a length of 3,000 feet, with no more than one station to be located within any one continuous length of 10 miles of road.

(c) Short spurs and branch lines may be shown on the map of the main line, separately described by termini and length. Longer spurs and branch lines shall be shown on separate maps. Grounds desired for station purposes may be indicated on the map of definite location but separate plats must be filed for such grounds. The maps shall show any other line crossed, or with which connection is made. The station number shall be shown on the survey thereof at the point of intersection. All intersecting roads must be represented in ink of a different color from that used for the line for which application is made.

(d) Plats of railroad station grounds shall be drawn on a scale of 400 feet to an inch, and must be filed separately from the line of route. Such plats shall show enough of the line of route to indicate the position of the tract with reference thereto. Each station ground tract must be located with respect to the public survey as provided in § 161.8 and all buildings or other structures shall be platted on a scale sufficiently large to show clearly their dimensions and relative positions.

(e) If any proposed railroad is parallel to, and within 10 miles of, a railroad already built or in course of construction, it must be shown wherein the public interest will be promoted by the proposed road. Where the Interstate Commerce Commission has passed on this point, a certified copy of its findings must be filed with the application.

(f) The applicant must certify that the road is to be operated as a common carrier of passengers and freight.

(g) The applicant shall execute and file, in duplicate, a stipulation obligating the company to use all precautions possible to prevent forest fires and to suppress such fires when they occur, to construct and maintain passenger and freight stations for each Government townsite, and to permit the crossing, in a manner satisfactory to the Government officials in charge, of the right-of-way by canals, ditches, and other projects.

(h) A railroad company may apply for sufficient land for ballast or material pits, reservoirs, or tree planting to aid in the construction or maintenance of the road. The authority to use any land for such purposes shall terminate upon abandonment or upon failure to use the land for such purposes for a continuous period of 2 years.

§ 161.24 Railroads in Oklahoma.

(a) The Act of February 28, 1902 (32 Stat. 43), authorizes right-of-way grants across tribal and individually owned land in Oklahoma. Rights-of-way granted under that act shall be subject to the provisions of this section as well as other pertinent sections of this Part 161. Except when otherwise determined by the Secretary, railroad rights-of-way in Oklahoma granted under the Act of February 5, 1948 (62 Stat. 17; 25 U.S.C. 323–328), shall also be subject to the provisions of this section.

(b) One copy on tracing linen of the map of definite location showing the line of route and all lands included within the right-of-way must be filed with the Secretary. When tribal lands are involved, a copy of the map must also be filed with the tribal council.

(c) Before any railroad may be constructed or any lands taken or condemned for any of the purposes set forth in section 13 of the Act of February 28, 1902 (32 Stat. 47), full damages shall be paid to the Indian owners.

(d) After the maps have been filed, the matter of damages shall be negotiated by the applicant directly with the Indian owners. If an amicable settlement cannot be reached, the amount to be paid as compensation and damages shall be fixed and determined as provided in the statute. If court proceedings are instituted, the facts shall be reported immediately as provided in § 161.21.

§ 161.25 Oil and gas pipelines.

(a) The Act of March 11, 1904 (33 Stat. 65), as amended by the Act of March 2, 1917 (39 Stat. 973; 25 U.S.C. 321), authorizes right-of-way grants for oil and gas pipelines across tribal, individually owned and Government-owned land. Rights-of-way granted under that act shall be subject to the provisions of this section as well as other pertinent sections of this Part 161. Except when otherwise determined by the Secretary, rights-of-way granted for such purposes under the Act of February 5, 1948 (62 Stat. 17; 25 U.S.C. 323–328) shall also be subject to the provisions of this section.

(b) Rights-of-way, granted under aforesaid Act of March 11, 1904, as amended, for oil and gas pipelines, pumping stations or tank sites shall not extend beyond a term of 20 years and may be extended for another period of not to exceed 20 years following the procedures set out in § 161.19 of this part.

(c) All oil or gas pipelines, including connecting lines, shall be buried a sufficient depth below the surface of the land so as not to interfere with cultivation. Whenever the line is laid under a road or highway, the right-of-way for which has been granted under an approved application pursuant to an act of Congress, its construction shall be in compliance with the applicable Federal and State laws; during the period of construction, at least one-half the width of the road shall be kept open to travel; and, upon completion, the road or highway shall be restored to its original condition and all excavations shall be refilled. Whenever the line crosses a ravine, canyon, or waterway, it shall be laid below the bed thereof or upon such superstructure as will not interfere with the use of the surface.

(d) The size of the proposed pipeline must be shown in the application, on the maps, and in the engineer's affidavit and applicant's certificate. The application and maps shall specify whether the pipe is welded, screw-joint, dresser, or other type of coupling. Should the grantee of an approved right-of-way desire at any time to lay additional line or lines of pipe in the same trench, or to replace the original line with larger or smaller pipe, written permission must first be obtained from the Secretary and all damages to be sustained by the owners must be paid in advance in the amount fixed and determined by the Secretary.

(e) Applicants for oil or gas pipeline rights-of-way may apply for additional land for pumping stations or tank sites. The maps shall show clearly the location of all structures and the location of all lines connecting with the main line. Applicants for lands for pumping stations or tank sites shall execute and file a stipulation agreeing as follows:

(1) Upon abandonment of the right-of-way to level all dikes, fire-guards, and excavations and to remove all concrete masonry foundations, bases, and structural works and to restore the land as nearly as may be possible to its original condition.

(2) That a grant for pumping station or tank site purposes shall be subservient

to the owner's right to remove or authorize the removal of oil, gas, or other mineral deposits; and that the structures for pumping station or tank site will be removed or relocated if necessary to avoid interference with the exploration for or recovery of oil, gas, or other minerals.

(f) Purely lateral lines connecting with oil or gas wells on restricted lands may be constructed upon filing with the Secretary a copy of the written consent of the Indian owners and a blueprint copy of a map showing the location of the lateral. Such lateral lines may be of any diameter or length, but must be limited to those used solely for the transportation of oil or gas from a single tract of tribal or individually owned land to another lateral or to a branch of the main line.

(g) The applicant, by accepting a pipeline right-of-way, thereby agrees that the books and records of the applicant shall be open to inspection by the Secretary at all reasonable times, in order to obtain information pertaining in any way to oil or gas produced from tribal or individually owned lands or other lands under the jurisdiction of the Secretary.

§ 161.26 Telephone and telegraph lines; radio, television, and other communications facilities.

(a) The Act of February 15, 1901 (31 Stat. 790), as amended by the Act of March 4, 1940 (54 Stat. 41; 43 U.S.C. 959); the Act of March 4, 1911 (36 Stat. 1253), as amended by the Act of May 27, 1952 (66 Stat. 95; 43 U.S.C. 961); and the Act of March 3, 1901 (31 Stat. 1083; 25 U.S.C. 319), authorize right-of-way grants across tribal, individually owned, and Government-owned land for telephone and telegraph lines and offices, for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities. Rights-of-way granted under these acts shall be subject to the provisions of this section as well as other pertinent sections of this Part 161. Except when otherwise determined by the Secretary, rights-of-way granted for such purposes under the Act of February 5, 1948 (62 Stat. 17; 25 U.S.C. 323–328), shall also be subject to the provisions of this section.

(b) A right-of-way granted under the said Act of March 4, 1911, as amended, shall be limited to a term not exceeding 50 years from the date of the issuance of such grant.

(c) No right-of-way shall be granted for a width in excess of 50 feet on each side of the centerline, unless special requirements are clearly set forth in the application which fully justify a width in excess of 50 feet on each side of the centerline.

(d) Applicants engaged in the general telephone and telegraph business may apply for additional land for office sites. The maps showing the location of proposed office sites shall be filed separately from those showing the line of route, and shall be drawn to a scale of 50 feet to an inch. Such maps shall show enough of the line of route to indicate the position of the tract with reference thereto. The tract shall be located with respect to the public survey as provided in § 161.8, and all buildings or other structures shall be platted on a scale sufficiently large to show clearly their dimensions and relative positions.

(e) Rights-of-way for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, shall be limited to 200 feet on each side of the centerline of such lines and poles; radio and television, and other forms of communication transmitting, relay, and receiving structures and facilities shall be limited to an area not to exceed 400 feet by 400 feet.

§ 161.27 Power projects.

(a) The Act of March 4, 1911 (36 Stat. 1253), as amended by the Act of May 27, 1952 (66 Stat. 95; 43 U.S.C. 961), authorizes right-of-way grants across tribal, individually owned and Government-owned land for electrical poles and lines for the transmission and distribution of electrical power. Rights-of-way granted under that act shall be subject to the provisions of this section as well as other pertinent sections of this Part 161. Except when otherwise determined by the Secretary, rights-of-way granted for such purposes under the Act of February 5, 1948 (62 Stat. 17; 25 U.S.C. 323–328) shall also be subject to the provisions of this section.

(b) All applications, other than those made by power-marketing agencies of the Department of the Interior, for authority to survey, locate, or commence construction work on any project for the generation of electric power, or the transmission or distribution of electrical power of 66 kv. or higher involving lands ~~other than tribal lands dealt with in the exception contained in § 161.2(c)~~ shall be referred to the Office of the Assistant Secretary of the Interior for Water and Power Resources or such other agency as may be designated for the area involved, for consideration of the relationship of the proposed project to the power development program of the United States. Where the proposed project will not conflict with the program of the United States, the Secretary, upon notification to that effect, may then proceed to act upon the application. In the case of necessary changes respecting the proposed location, construction, or utilization of the project in order to eliminate conflicts with the power development program of the United States, the Secretary shall obtain from the applicant written consent to or compliance with such requirements before taking further action on the application.

(c) A right-of-way granted under the said Act of March 4, 1911, as amended, shall be limited to a term not exceeding 50 years from the date of the issuance of such grant.

(d) Rights-of-way for power lines shall be limited to those widths which can be justified and in no event shall exceed a width of 200 feet on each side of the centerline.

(e) The applicant shall make provision, or bear the reasonable cost (as may be determined by the Secretary) of making provision, for avoiding inductive interference between any project transmission line or other project works constructed, operated, or maintained by it on the right-of-way authorized under the grant and any radio installation, telephone line, or other communication facilities now or hereafter constructed and operated by the United States or any agency thereof. This provision shall not relieve the applicant from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive interference.

(f) An applicant for a right-of-way for a transmission line having a voltage of 66 kv. or more must, in addition to the stipulation required by § 161.5, execute and file with its application a stipulation agreeing to accept the right-of-way grant subject to the following conditions:

(1) The applicant agrees that, in the event it becomes necessary for the United States to acquire the applicant's transmission line or facilities constructed on or across such right-of-way, the United States reserves the right to acquire such line or facilities at a sum to be determined upon by a representative of the applicant, a representative of the Secretary of the Interior, and a third representative to be selected by the other two for the purpose of determining the value of such property thus to be acquired by the United States.

(2) To allow the Department of the Interior to utilize for the transmission of electrical power any surplus capacity of the line in excess of the capacity needed by the holder of the grant for the transmission of electrical power in connection with the applicant's operations, or to increase the capacity of the line at the Department's expense and to utilize the increased capacity for the transmission of electrical power. Utilization by the Department of surplus or increased capacity shall be subject to the following terms and conditions:

(i) When the Department desires to utilize surplus capacity thought to exist in a line, notification will be given to the applicant and the applicant shall furnish to the Department within 30 days a certificate stating whether the line has any surplus capacity not needed by the applicant for the transmission of electrical power in connection with the applicant's operations, and, if so, the extent of such surplus capacity.

(ii) In order to utilize any surplus capacity certified by the applicant to be available, or any increased capacity provided by the Department at its own expense, the Department may interconnect its transmission facilities with the applicant's line in a manner conformable to approved standards of practice for the interconnection of transmission circuits.

(iii) The expense of interconnection will be borne by the Department, and the Department will at all times provide and maintain adequate switching, relaying, and protective equipment so as to insure that the normal and efficient operation of the applicant's line will not be impaired.

(iv) After any interconnection is completed, the applicant shall operate and maintain its line in good condition; and, except in emergencies, shall maintain in a closed position all connections under the applicant's control between the applicant's line and the interconnecting facilities provided by the Department.

(v) The interconnected power systems of the Department and the applicant will be operated in parallel.

(vi) The transmission of electrical power by the Department over the applicant's line will be effected in such manner and quantity as will not interfere unreasonably with the applicant's use and operation of the line in accordance with the applicant's normal operating standards, except that the Department shall have the exclusive right to utilize any increased capacity of the line which has been provided at the Department's expense.

(vii) The applicant will not be obligated to allow the transmission over its line by the Department of electrical power to any person receiving service from the applicant on the date of the filing of the application for a grant, other than persons entitled to statutory preference in connection with the distribution and sale of electrical power by the Department.

(viii) The Department will pay to the applicant an equitable share of the total monthly cost of maintaining and operating the part of the applicant's line utilized by the Department for the transmission of electrical power, the payment to be an amount in dollars representing the same proportion of the total monthly operation and maintenance cost of such part of the line as the maximum amount in kilowatts of the power transmitted on a scheduled basis by the Department over the applicant's line during the month bears to the total capacity in kilowatts of that part of the line. The total monthly cost may include interest and amortization, in accordance with the system of accounts prescribed by the Federal Power Commission, on the applicant's net total investment (exclusive of any investment by the Department) in the part of the line utilized by the Department.

(ix) If, at any time subsequent to a certification by the applicant that surplus capacity is available for utilization by the Department, the applicant needs for the transmission of electrical power in connection with its operations the whole or any part of the capacity of the line theretofore certified as being surplus to its needs, the applicant may modify or revoke the previous certification by giving the Secretary of the Interior 30 months' notice, in advance, of the applicant's intention in this respect. After the revocation of a certificate, the Department's utilization of the particular line will be limited to the increased capacity, if any, provided by the Department at its expense.

(x) If, during the existence of the grant, the applicant desires reciprocal accommodations for the transmission of electrical power over the interconnecting system of the Department to its line, such reciprocal accommodations will be accorded under terms and conditions similar to those prescribed in this paragraph with respect to the transmission by the Department of electrical power over the applicant's line.

(xi) The terms and conditions prescribed in this paragraph may be modified at any time by means of a supplemental agreement negotiated between the applicant and the Secretary of the Interior or his designee.

(g) Applicants may apply for additional lands for generating plants and appurtenant facilities. The lands desired for such purposes may be indicated on the maps showing the definite location of the right-of-way, but separate maps must be filed therefor. Such maps shall show enough of the line of route to indicate the position of the tract with respect to said line. The tract shall be located with respect to the public survey as provided in § 161.8, and all buildings or other structures shall be platted on a scale sufficiently large to show clearly their dimensions and relative positions.

[33 F.R. 19803, Dec. 27, 1968, as amended at 36 F.R. 14183, July 31, 1971]

APPENDIX B

UTILITIES, PIPELINES, AND COMMUNICATION STRUCTURES

UTILITIES, PIPELINES, AND COMMUNICATIONS STRUCTURES ON STATE LANDS

GUIDELINES

FOR LOCATION, CONSTRUCTION AND MAINTENANCE ON STATE LANDS OF ELECTRIC POWER OR COMMUNICATION LINES, LIQUID OR GAS PIPE LINES, FACILITIES OR STRUCTURES IN CONNECTION WITH SUCH LINES, OR SEPARATE COMMUNICATION RELAY TOWERS OR STATIONS.

STATE OF MICHIGAN

DEPARTMENT OF NATURAL RESOURCES

Prepared by Forestry Division

January, 1973

CONTENTS

INTRODUCTION

The Department of Natural Resources, under Authority of Act 17, Public Acts of 1921, section 299.3a has established certain rules for the protection of lands under its jurisdiction. Among these, Rule 1(8) requires "proper written permission" from the Department to be obtained before the construction of business or commercial facilities or improvements or the cutting or removing of living trees or shrubs or other vegetation.

Act 10, Public Acts of 1953, as amended, authorizes the Natural Resources Commission to grant easements upon such terms and conditions as it deems just and reasonable for the constructing, erecting, laying, maintaining, and operating of pipelines and electric, telephone, and telegraph lines, together with facilities and structures in connection therewith over, through, under, and upon any and all land belonging to or held in trust by the State of Michigan which are under the jurisdiction of the Natural Resources Commission or the Department of Natural Resources.

This set of guidelines is intended to aid companies contemplating the placement of utility lines or structures across or upon State Lands and to assist personnel of the Department of Natural Resources in their consideration of and response to requests for the placement of such facilities. Use of these guidelines should assist applicants to obtain the required "proper written permission."

Location, design, construction, and maintenance of electric power, communications, liquid or gas service, collection, transmission, and distribution lines, and of facilities and structures pertaining to any of these, whether connected or separate, all are covered in these guidelines. Within them, the term "utility lines or structures" refers to all such facilities, whether on, over, or beneath the surface of the land.

These guidelines do not affect applicant's obligation to comply with any applicable safety regulations of the state or federal government. Such safety regulations will, in all cases, take precedence.

Objectives: These guidelines are intended to be used so as to protect and conserve the natural resources while responding to proven public convenience and necessity for the utilities provided. The natural resources are severally: land, water, all flora and fauna, minerals, aesthetic and recreational values, and either unique or scarce geographic features. Items or areas of significant historic or social value are also to be protected.

Obviously, total protection and conservation of each of these values is not compatible with utility line or structure construction and maintenance. The purpose, then, of these guidelines is to provide a basis for specific actions which will provide the greatest reasonable protection and conservation possible and feasible to each of the natural resources affected.

Within these guidelines are information and requirements directed to the public utility or other agency or company responsible for the utility line or structure involved, and also to employees of the Department of Natural Resources. For the sake of brevity, utilities, agencies or companies which own, control, operate, or install utility lines, pipelines, attached structures, or separate facilities are herein referred to as the "company" or in some cases as the "applicant", or "permittee". The Department of Natural Resources is referred to as the "DNR." Any reference to an office or title, otherwise unidentified, is to an office or employee of the DNR.

1. GENERAL INFORMATION

Easements are required for the construction or placement of any electric power or communication line or any pipeline upon or across state-owned lands. Easements for these purposes are issued to utility companies, local units of government, or to companies serving them, or to companies involved in mineral development or transportation. Easements are not issued, but permits may be granted for road construction necessary for access or service to such facilities on state-owned lands.

It is the policy of the Commission and the Department to cooperate with agencies or companies seeking easements by processing right-of-way applications as expeditiously as possible in order that they may be either approved or denied without undue delay.

All applications involving state-owned lands are to be submitted to the Lands Division, Department of Natural Resources, Lansing, Michigan, 48926. Each application should: Include the legal description of the land and the purpose for which the easement is required. Indicate the type of construction proposed and the width of right-of-way needed, both during construction and for the permanent easement.

Applicants are requested to plan operations on state-owned lands far enough in advance to allow field examinations and processing by the DNR (see 3. PRIOR NOTIFICATION SCHEDULE, p.10). Clearing, grading, ditching, or construction must not be commenced until an easement or proper written permission has been granted.

Preliminary applications and requests for right of entry to survey and stake proposed transmission line rights-of-way are encouraged. They should be accompanied by two copies of aerial mosaics, topographic maps,

or comparable drawings indicating the route desired.

Following Department review, the Lands Division will advise the applicant of special areas to be avoided in planning the final route, and will grant right of entry to survey and/or stake a proposed centerline. This right of entry to survey does not commit the Department or the Commission to approval of final right-of-way plans or location.

Each final application should be accompanied by four copies of survey prints or drawings showing the proposed right-of-way centerline across state land. Wherever possible, distances from section corners and bearings and distances of centerlines should be given. Sufficient detail concerning the purpose and necessity of the installation should be included to assist the DNR in evaluating the application.

Approval of all applications and issuance of easements or authority to commence operations shall originate from the Lansing office of the Department and be conveyed by the Lands Division. Final approval must be granted by the Director or his delegated Deputy. In special circumstances, formal approval by the Natural Resources Commission may be required. (See Appendix-Department Letter #165, p.56).

Upon approval, easements will be issued without further delay.

Where local access or service roads may be required, a permit for construction may be granted by the DNR field representative. (See Appendix-Department Letter #122, p. 53).

On state-owned land in Department of Natural Resources' Regions I and II (the Upper Peninsula and northern 33 counties of the Lower Peninsula), except in State Parks, the Nayanquing Point Wildlife Area, Tobico Marsh Game Area, Quanicassee Wildlife Area, and Edmore State Game Area, the Area Forester is the field representative in charge of all conditions of the easements and any permits issued in conjunction

therewith. The field representative in any State Park is the Park Manager and in the above respective Wildlife or Game Areas is the Area Manager. (See Appendix-Department Letter #161, p. 55).

The name and address of the field representative in charge of the proposed location of a facility will be found on each easement issued. Prior to issuance of an easement, it can be obtained upon request to the Lands Division.

After applications or requests for easements are received in Lansing, field representatives in charge of the administrative areas involved will be notified and asked for recommendations (See Appendix-Department Letter #165, p. 56). The field representative is responsible for consulting with representatives of other Divisions concerned and obtaining their responses before making his recommendations.

Recommendations, requirements, and restrictions indicated in the following sections of these guidelines are expected to be used by field representatives and those interested in placing lines or structures upon state-owned lands in determining specific locations and details of land use, construction, restoration after construction, and maintenance procedures. Care in planning, before action, will in most cases assist in avoiding unnecessary delays or the necessity for later changes.

Meetings between utility or pipeline company and the Department may be advisable before route location, or for consultation regarding special circumstances. Informal consultation between the company and/or construction contractor and the field representative may resolve most questions. Information exchanged regarding route locations must be kept confidential to avoid public knowledge and the possible cost impact if utility routing is known in advance of right-of-way purchase.

Where unusual circumstances prevail, specifications may have to be written and applied as needed. In every instance aesthetic values will be afforded high priority of consideration and protection.

When circumstances indicate a need or reason for deviation from these recommendations, the applicant, permittee, or grantee of an easement should notify the field representative as early as possible so as to allow consideration before proceeding with location, construction, or maintenance. When such deviation is judged to be significant in character, by either the Company or the field representative, approval should be requested in writing, with full particulars, description, maps, and supporting reasons before being acted upon.

After recommendations are received from the field, a decision will be made as to approval, denial, or alteration of the application. The results will be conveyed to the applicant by the Lands Division in the Lansing Office of the Department.

Plans for all underground utility projects where construction is contemplated to cross or be within 50 feet of a stream, lake or reservoir shall be furnished by the utility owner to the Hydrological Survey Division of the Bureau of Water Management, Department of Natural Resources, from which office a permit must be obtained. (Act 291, P.A. 1965, Section 6.) The Handbook of Specifications, 1971 Edition, issued by that agency, will in all such cases have precedence and will be applied.

Every effort should be made by the applicant prior to requesting an easement or permit to understand clearly the intent and details of the following guidelines and to gain an understanding of measures

acceptable to the field representative. This should expedite procedures and avoid problems later.

Issuance of a permit or easement may be contingent upon posting of a performance bond by the applicant to insure care in construction and proper clean-up following.

After an easement and/or permit is issued, the grantee or permittee should go over plans for actual construction and discuss any questions or deviations from these guidelines with the field representative prior to construction. In cases of specific local deviation necessitated by local circumstances, such as the need to clear a wider right-of-way on a hillside, the field representative may give necessary permission by writing it into the permit. These are guidelines, and it is recognized that flexibility in application is needed to meet varying circumstances. However, exceptions should not become the rule.

It is the responsibility of the field representative to be sure that any specific instructions, requirements, or restrictions issued by him to the Company or contractor are within the guidelines or with approval of his supervisor and are clearly understood by the permittee or Company representative on the job. This will require written details in many instances. Representatives of other Divisions of the DNR should also be advised and consulted when significant changes are made or special instructions are issued.

DNR Commission approval of preliminary and final plans for site and route location, construction, or enlargement of utility lines is required within a designated Natural River Area (Act 231, P.A. 1970).

Within these guidelines, electric power distribution lines are all those of 15,000 volts or less to ground for wye connected systems and 20,000 volts or less for delta connected systems.

2. PAYMENT FOR TIMBER OR DAMAGE

Where it is necessary to clear the land of trees, or to cut trees which obstruct or endanger a utility structure or facility, a permit must be issued and payment made to the DNR. Initial clearance of a right-of-way, as described in the easement or permit to construct, may be accomplished without an additional permit. When an easement is issued, an appraisal will have been made of the value of any timber to be removed from the right-of-way or area to be occupied. Payment must be made by the company to the DNR when the easement is issued. Before cutting any trees outside the right-of-way, either during or after construction, a company should request a timber-cutting permit from the field representative, who will determine the rate of payment and will inform the applicant as to the time and method of payment. Any trees cut under permit but not sold to the company shall remain the property of the DNR. They shall be cut and piled as directed by the field representative.

Where construction results in damage to forest plantations, special projects, facilities, or properties, the DNR will appraise such damages to be paid to the Department by the grantee of the easement or holder of the permit. In anticipation of such damage, a company should consult the field representative for appraisal and any special permission which may be required.

If a company or contractor causes damage to an existing road or trail, such damage should be promptly repaired, or arrangements made to pay the cost of repair. During hunting season, or in any case where a road is being used by a timber operator, it is the responsibility of any company engaged in construction to maintain the road it uses in a condition usable by others.

3. PRIOR NOTIFICATION SCHEDULE

A permit, giving right of entry for survey purposes may be granted by the field representative, and surveying accomplished without regard to this schedule. Clearing, grading, ditching, or construction must observe the schedule.

Applications and plans for the proposed construction of lines or facilities must be submitted to the Lands Division, Lansing Office, DNR, well in advance of the start of construction in order to allow review of route location, consideration of anticipated effects on natural resources and the environment, estimate of timber volumes to be cleared and determination of special practices which may be required to protect certain resource values. The Lands Division will notify the field representative of applications received and will send a copy to the appropriate Division office.

a. For power distribution or telephone service lines or oil or gas well gathering lines, applications must be submitted at least 30 days in advance of planned clearing or construction. For any facility other than power distribution, telephone, or gathering pipelines, the applications must be submitted at least 90 days prior to intended start of actual work.

b. At least 20 days prior to actual start of clearing or construction any plans altered or revised after an easement or permit is first applied for must be resubmitted by the Company to the Lands Division for review and approval by the appropriate DNR offices.

c. The Company will inform the field representative of the intended date for actual clearing or construction to begin at least one week prior to that date.

d. At least 3 days advance notice must be given by the Company to the field representative before blasting in any area. Notification must also be given of termination of blasting if ended or if discontinued for over 2 days.

e. Safety regulations of the Public Service Commission require that in any case where a new line to be constructed must cross an existing gas pipeline, it will be the responsibility of the Company constructing the new line to contact the owners of the existing gas line at least seventy-two (72) hours in advance so that the center line of the existing gas line can be located and marked. Similar notification in the case of other lines is encouraged to avoid accidents and damages.

f. A plan of protection and a contingent emergency plan in case of accidental rupture of the working line must be filed with the DNR and approved before new pipeline construction is started parallel to an existing pipeline.

4. PLACING AND CONCEALING RIGHTS-OF-WAY AND FACILITIES

a. Location:

The Department of Natural Resources strongly disapproves of any encroachment of utility lines into wilderness, wild, and natural areas, state parks and recreation areas, game areas, or the travel or water influence zones* in State Forests, particularly where such lines would be offensive to the view or "camera eye" in otherwise aesthetically pleasing surroundings.

Accordingly, applications for utility rights-of-way to cross such lands will generally be disapproved when the route selected is in conflict with present, planned, or potential use of the lands involved, unless such state lands cannot be avoided in extending the required service. This same policy applies in regard to separate structures, such as communications relay towers. Utility distribution lines and telephone lines which can be buried within the previously cleared area at the edge of a roadway may be allowed.

Permission for a telegraph, telephone, power or other public utility company or municipality to place, construct, and erect such lines along a public road right-of-way adjoining State land may be granted by the highway agency controlling any public road.

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*Travel Influence Zone: The land area subject to most frequent viewing by the public. It consists primarily of the lands along federal, state, regularly maintained county roads and selected trail roads, together with highly used recreation developments, highly used recreation trails, and expected recreation developments as designated on State Forest maps. In depth, it includes the area easily seen from the travel route or development or within one-quarter mile of it, whichever is least.
Water Influence Zone: State Forest frontage on lakes, certain ponds, main streams, and feeder streams as designated on State Forest maps. It will include the areas visible to the public while engaged in water-oriented activities: Not less than 200 feet or over one-quarter mile from the water.

The DNR must give approval for the cutting or removal of any trees or shrubs for such purpose. Coordination and cooperation should be sought between DNR and highway agencies concerned.

Where right-of-way is required for a high voltage line or where it is not feasible to bury a distribution line, a route should be selected which will maintain the highest quality of visual impression by hiding the line from view insofar as practicable.

Because in most instances electric distribution and telephone lines serve private owners only, rights-of-way to extend service to private landowners should be located wholly or partially on private property, avoiding state-owned lands whenever feasible.

In the absence of a road, if the right-of-way parallels a legal subdivision line and private property which is expected to be cleared for any purpose, the edge of the clearing should be on the legal subdivision line. If there is no reason to anticipate clearing of the private property, the line should be so placed as to avoid the creation of a strip of land less than 250 feet wide between the right-of-way and the property line. Deflection of the line and right-of-way (described later) to protect aesthetic values will be employed in this latter instance.

Utility companies will be required to make joint use of rights-of-way wherever such joint use for similar or different additional facilities would be compatible, desirable, and technically feasible. This may require addition of facilities

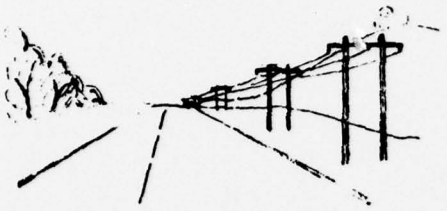
in the right-of-way, enlargement, or extension of existing rights-of-way belonging to either applicant or others. The burden of proving that a joint use is not feasible rests with the applicant.

Locating a new right-of-way parallel and adjacent to an active railroad right-of-way is desirable. In the case of abandoned railroad grades, however, although any buried pipe or cable may well use the abandoned right-of-way, because of the fact that these may become recreational travel routes, overhead lines should not be located on or adjacent to them.

The relative advantages and disadvantages of joint use of an existing right-of-way by a new user, or of locating a new line either adjacent to or widely separated from existing lines, should be considered carefully. In those cases where an existing cleared right-of-way for an overhead electric line may be objectionably located according to these guidelines, it is generally recommended that a new line (of any kind) be located so as to better protect the resources and aesthetics, with the expectation that at some future date the older existing facility may be removed and reconstructed as a joint use of the new right-of-way. In considering this, it should be remembered that if such change might be desirable, each additional use of the old location adds to its permanence.

Right-of-way boundaries should be so located as to avoid creating unusable islands or strips between them, or between them and features such as roads, railroads, rivers, lakes, etc.

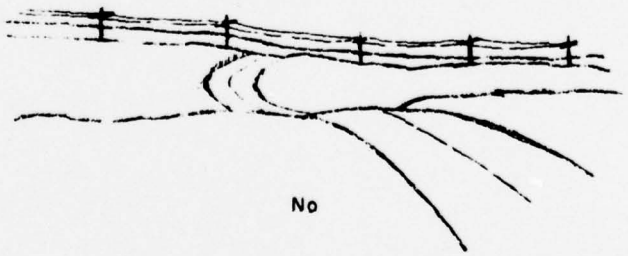
Long views of overhead lines parallel to existing or proposed highways shall be avoided. Alternative routes away from highways should be selected.



No

Yes

Where possible, a right-of-way may better be placed so as to be concealed from the road by natural terrain features, such as hills or ridges. The route selected should avoid crossing roads at high points. Where possible, cross the road or trail at a dip, at middle slopes, or on a curve in the road in order to provide screening and background to reduce visibility of the line. Similar routing is desirable in the vicinity of lakes or streams and developed recreational areas.

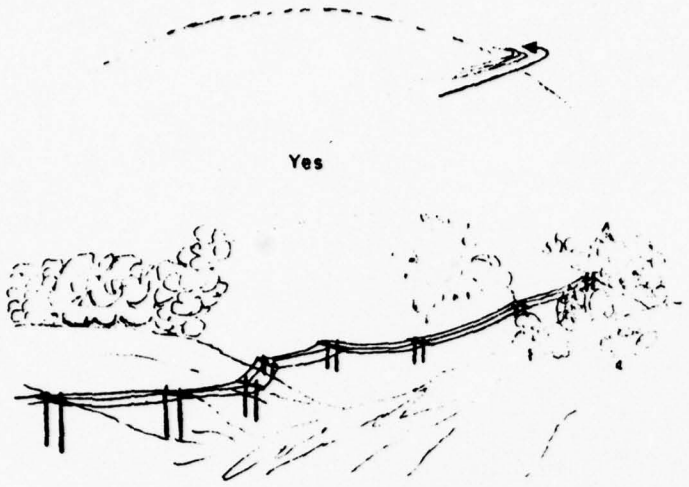


No

Yes

Centering a right-of-way in a valley is also undesirable as such a location serves to attract attention to the facility or clearing.

Rights-of-way should not cross hills and other high points at the crests. If possible, the route should be on the lee side of high points from the prevailing winds to aid in fire control and to reduce access to damaging and drying winds.



If the route must encounter a slope, ridge, or hill, it should be located so as to traverse such a feature at a diagonal and to avoid crossing at right angles to the terrain features.

Open expanses of water and marshland should be avoided, particularly those known to be heavily used as flight corridors by migratory waterfowl or other birds. Avoid known areas of wildlife nesting or concentration and deeryards.

Unobtrusive sites should be selected, where practical, for the location of above-ground structures, such as switchyards, substations, compressor stations, and communications relay stations. Substations and switchyards are subject to growth necessary to meet increasing demands. For this reason, the sites selected should be capable of accommodating multiple transmission and distribution line access. Location within developed or highly-used scenic or recreational areas, on water frontage, or on hill tops will be denied unless the applicant proves necessity. Within State Forests, this restriction includes all of the travel and water influence zones. Sites near existing or proposed major highways should be avoided, if possible.

Placement of microwave radio relay towers near but below, rather than on the crest of a hill or ridge will reduce the adverse visual impact. The location of these towers is critical, however, and must be determined by the utility company.

Potential noise should be considered in locating compressor stations. Areas should be chosen where sound resonation would be minimal. Screening of the facility by surrounding planting may be required to reduce noise emission. Either natural or planted screening will also help to conceal structures from view.

Adverse environmental impact of both attached and separate structures can be reduced if sites chosen require least possible clearing and grading, least possible extension of required power line and access road construction, and afford easy access for maintenance and service during bad weather.

b. Reduction of Visual Impact

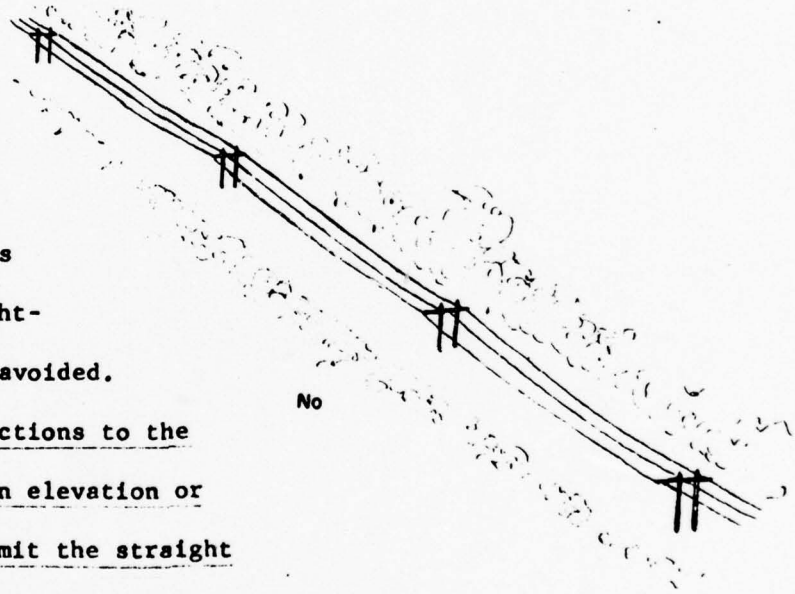
In reviewing proposed rights-of-way for electric distribution lines across travel or water influence zones or other areas of high aesthetic value, underground construction normally will be favored, but not rigidly required. (See 7. FEATURES AND DETAILS CONCERNING CONSTRUCTION.) Electric and telephone lines to serve Department-owned facilities and installations, or to serve private facilities within the confines of a dedicated unit shall be buried whenever feasible. In such cases the Rules and Regulations Governing the Extension of Underground Electric Distribution Lines, as adopted by the Michigan Public Service Commission on August 10, 1970, shall apply.

Burying will usually not be required if the proposed line will be on State land for one-eighth mile, or less, when there is ledge rock or bed rock in the right-of-way that cannot be avoided by reasonable route change, or when the topography is such that burying will degrade the environment more than an overhead line (this may occur in very rough topography). If the applicant objects, the burden of proof that burying the line is not practical or feasible rests with him. Proof should include a detailed cost estimate based on efficient burying method such as plowing.

In addition, all telephone lines and all power lines up to 34.5 KV, except those which can be placed on existing utility poles, should be buried wherever it is practical and feasible.

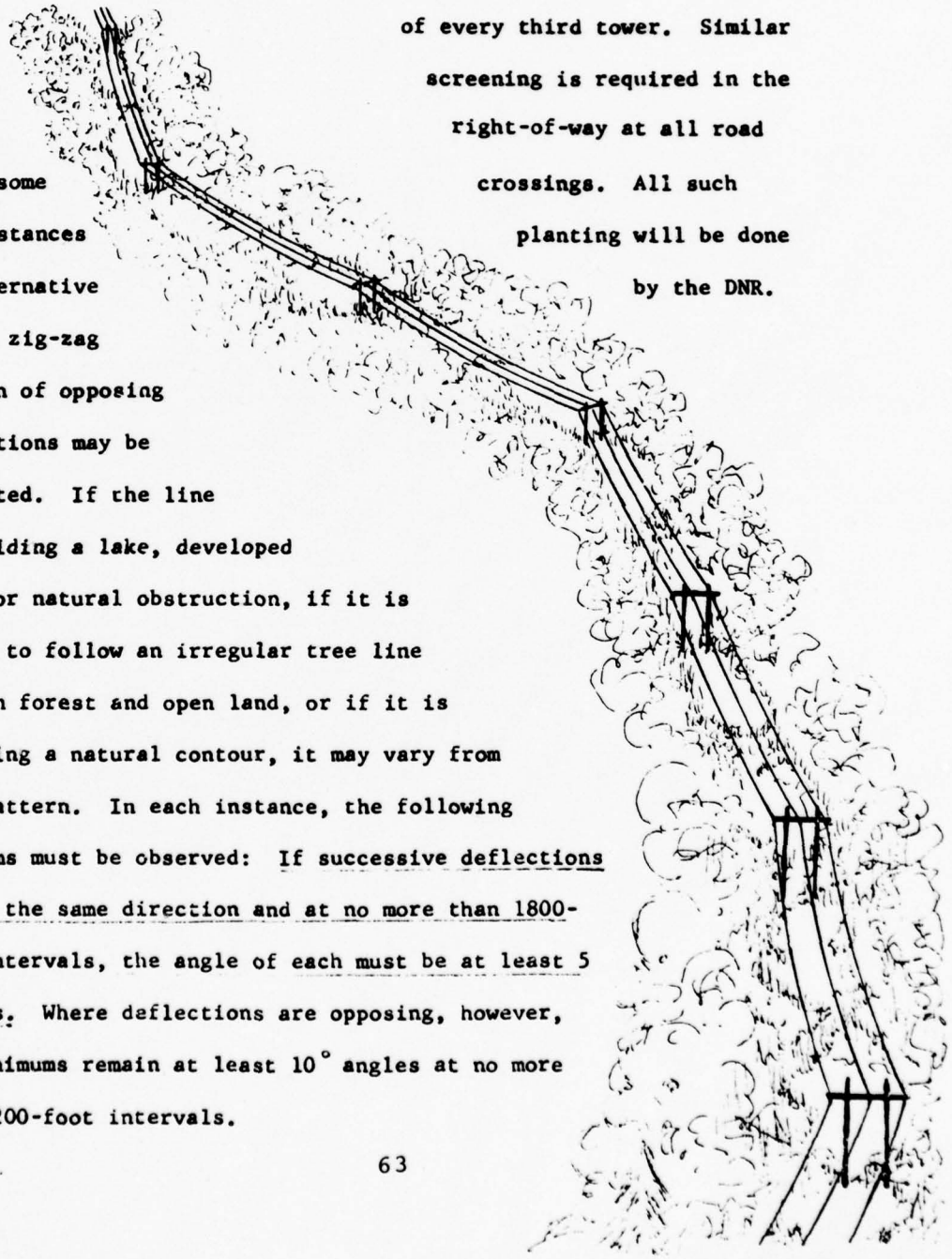
Buried pipe, electric, or communications lines which are or can be routed to follow roadways will be required to stay <u>within the cleared portion</u> of the road right-of-way, if possible. Where public roads are concerned, the consent of the township, county, or state highway commissioner is required. Clearing of brush or removal of trees beyond the previously cleared right-of-way should be carefully avoided except where the applicant proves it necessary. However, it may be more desirable to widen the cleared right-of-way along one side of a road or trail, rather than to construct an entire new right-of-way in a new location. This placement in many cases may provide vistas for roadside views and will allow easy access for service to the buried facility.

Scenic forest roads and trails will not be used for buried utilities or pipelines where removal of tree or shrub growth would be necessary. Along such routes, buried line rights-of-way should be concealed by sufficient separation from the road or trail to allow screening from view of the passerby. To the fullest extent possible, this placement will be outside of the travel influence zone.

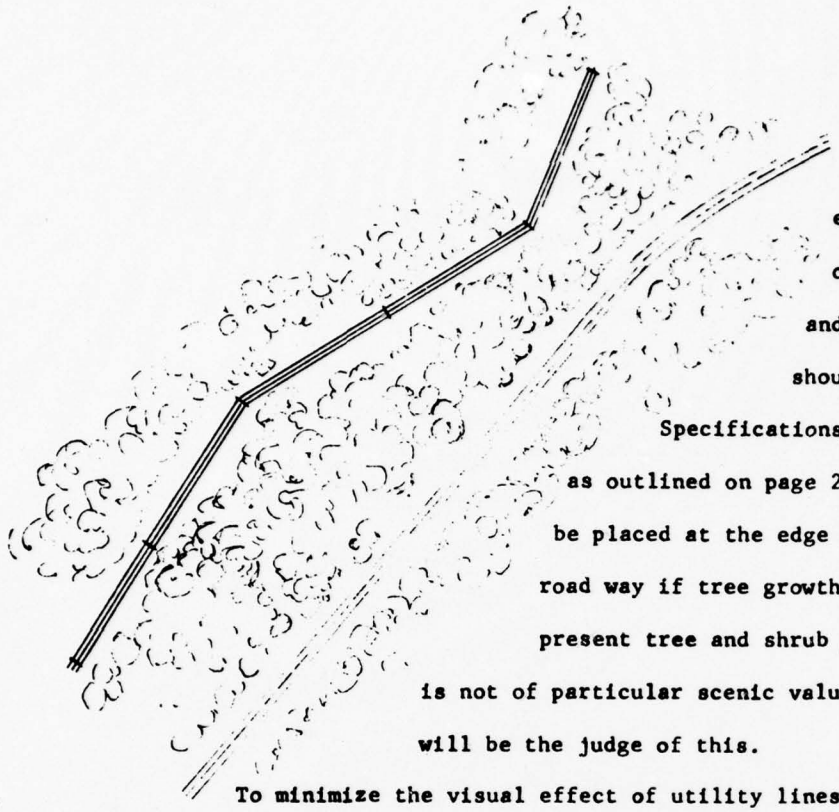


Long stretches of a straight right-of-way should be avoided. If natural obstructions to the view or changes in elevation or direction will limit the straight right-of-way visual impact to less than 2200 feet, no measures need be taken. In other situations, deflections, screening growth and "feathering" of the growth should be used to reduce the "corridor" or "bowling alley" effect. The deflections for all lines up to, but not including 345 KV, should be not less than 10 degrees and should be spaced at not more than 2200 feet apart. Low tree or shrub growth should be retained or encouraged to lessen the effect of the clearing. Deflections should be made even in open areas in anticipation of possible changes to the cover.

Overhead power transmission lines carrying 345 KV or higher will not require deflections. Instead, screening plantings of shrubs and low-growing trees within the right-of-way will be used. These plantings will be the minimum necessary to obstruct the view of a person on the right-of-way for over a two-tower span. Screening will hide from view at least the lower 20 feet of every third tower. Similar screening is required in the right-of-way at all road crossings. All such planting will be done by the DNR.

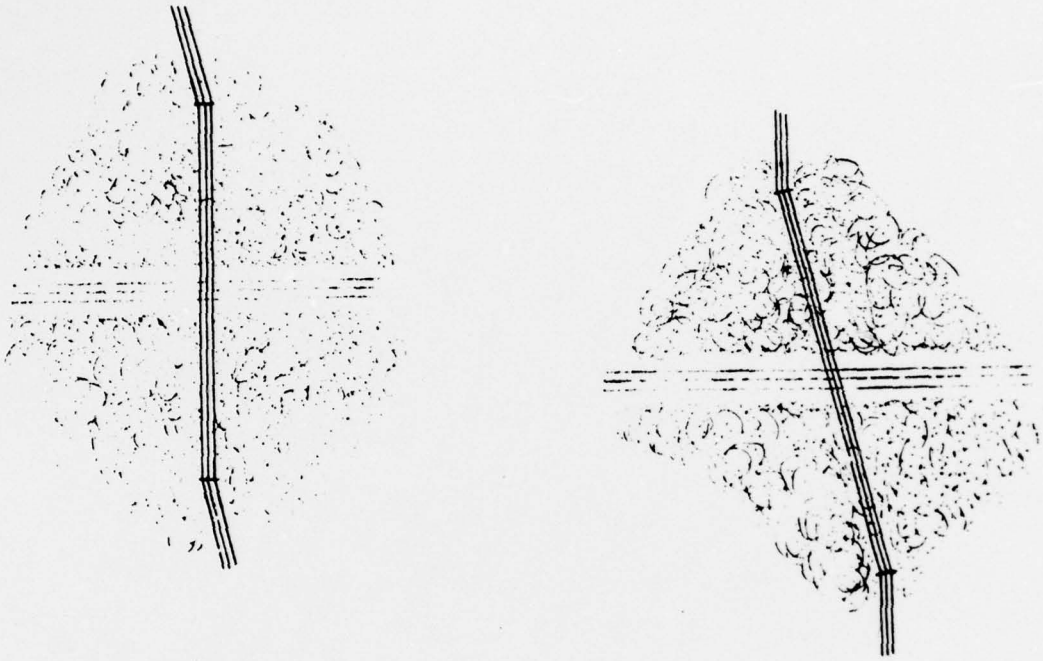


Under some circumstances an alternative to the zig-zag pattern of opposing deflections may be permitted. If the line is avoiding a lake, developed area, or natural obstruction, if it is routed to follow an irregular tree line between forest and open land, or if it is following a natural contour, it may vary from that pattern. In each instance, the following minimums must be observed: If successive deflections are in the same direction and at no more than 1800-foot intervals, the angle of each must be at least 5 degrees. Where deflections are opposing, however, the minimums remain at least 10° angles at no more than 2200-foot intervals.



Where trees occur along the road, the distance between the edge of the cleared portion of the utility right-of-way and the centerline of the road should be not less than 300 feet. Specifications for deflections are the same as outlined on page 20. Buried utility lines may be placed at the edge of the cleared portion of the road way if tree growth will not be disturbed or if present tree and shrub growth which must be removed is not of particular scenic value. The field representative will be the judge of this.

To minimize the visual effect of utility lines along roads bordered by open areas or areas of low cover, the utility lines should be placed at the edge of the field farthest from the road or no less than 300 feet from the center line of the road to the near side of the utility right-of-way. Exception may be necessary where topography, natural obstruction, or special areas are limiting.



Deflections of the utility right-of-way at a road crossing should be no less than 15° angles and located between 100 and 300 feet from each side of road. Exceptions may be made where natural obstructions to the view from the road (other than trees), or contours of the land limit visibility along the line to less than 500 feet.

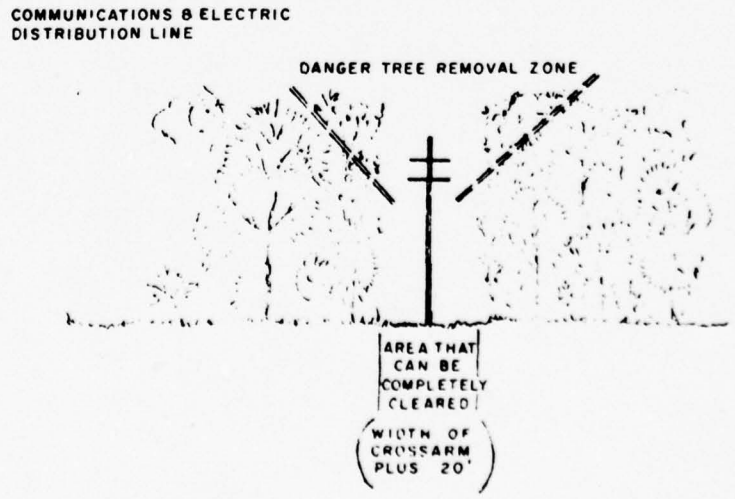
5. THE AREA OCCUPIED OR USED

Right-of-way clearings should be kept to the minimum width necessary to provide unhampered service free from potential damage caused by adjacent trees, and affording safety to utility workers. Practices of total removal and prevention of tree and shrub growth from a wide, straight right-of-way are no longer acceptable to the discerning public, and cannot be justified on the basis of service, safety or good land use.

To provide for construction and maintenance access and to minimize the visual impact to the public along the right-of-way without endangering the structures, the following guidelines should be observed:

a. For overhead communications and electric distribution lines:

(1) The right-of-way for a communications or electric power distribution line will be 30 feet wide. Where the line is to be placed parallel to an existing cleared right-of-way, the added right-of-way will be reduced in width by ten feet.



(2) The right-of-way may be cleared of trees and shrubs. Clearing is also permitted where needed during construction for placement of guy lines and for temporary storage of equipment and materials.

(3) Upon request by the company, the field representative may issue a timber cutting permit which will allow the company to remove weak, leaning, or dead trees from outside the right-of-way which could strike the line in falling. (See page 9 in regard to payment for timber.)

(4) Companies are encouraged not to remove low-growing trees and shrubs in the right-of-way which do not interfere with operation or safety of the line.

b. <u>For buried communications or electric distribution lines:</u>

(1) Easements or right-of-way permits for underground power or communications lines should normally not exceed fifteen feet depending on soils, tree roots and rocks, and equipment used.

(2) In order to avoid very large trees, rocks or other obstructions which may be encountered during cable laying, it will be permissible to deviate from the survey line, as staked, up to 15 feet.

(3) Where necessary to overcome unusual construction difficulties, a permit will be issued accordingly by the field representative, who must approve and give permission for any additional timber to be removed. (See page 9 in regard to payment for timber.)

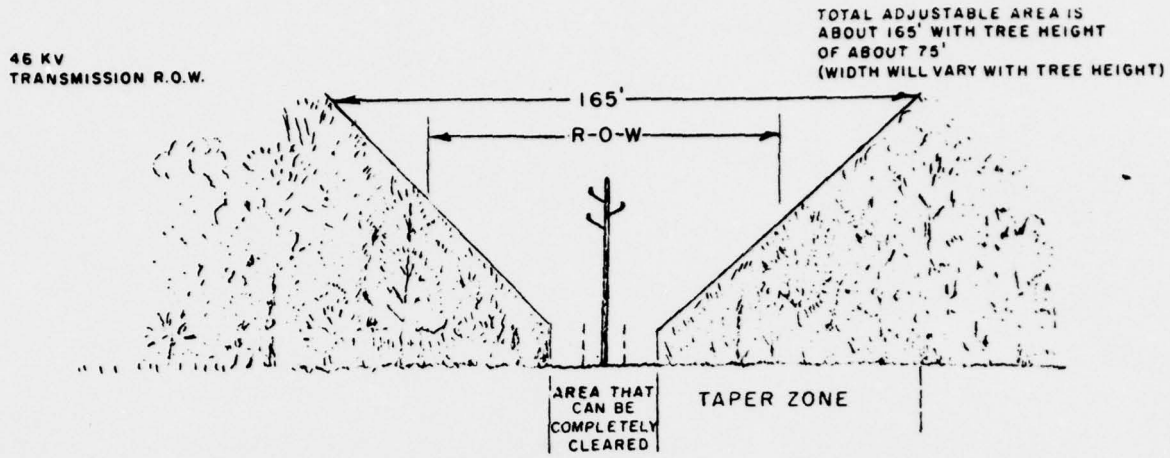
(4) Where the cable can generally follow along the route of an existing cleared right-of-way, it will be required to use that existing route and right-of-way as far as possible. The new right-of-way should occupy the old, existing right-of-way with additional widening and clearing only where and to the extent it is unavoidable.

c. For overhead electric power transmission lines:

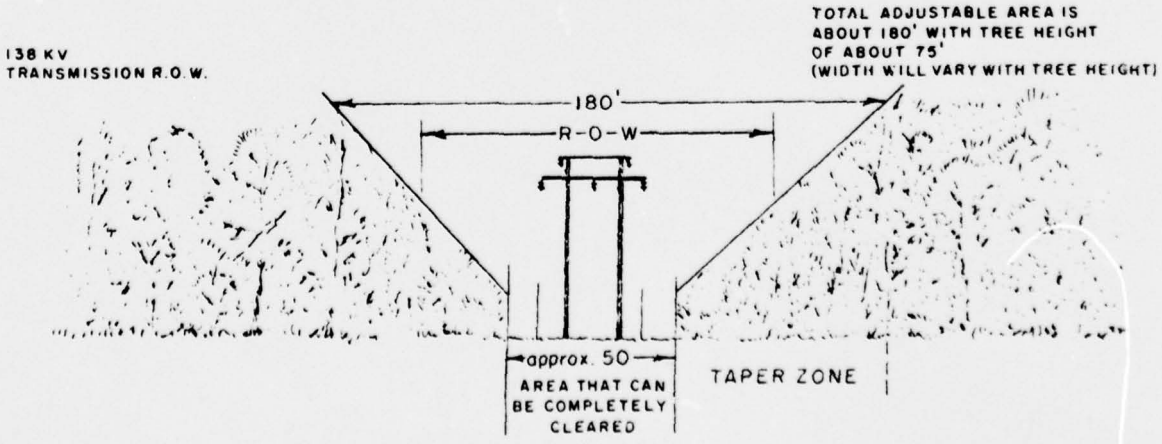
(1) The right-of-way for an overhead electric power transmission line will be 100 feet wide. Where the line is to be parallel to an existing cleared right-of-way other than any other overhead line, the added right-of-way will be that necessary to accommodate the supporting towers or the width of crossarms used, plus 50 feet laterally on one side.

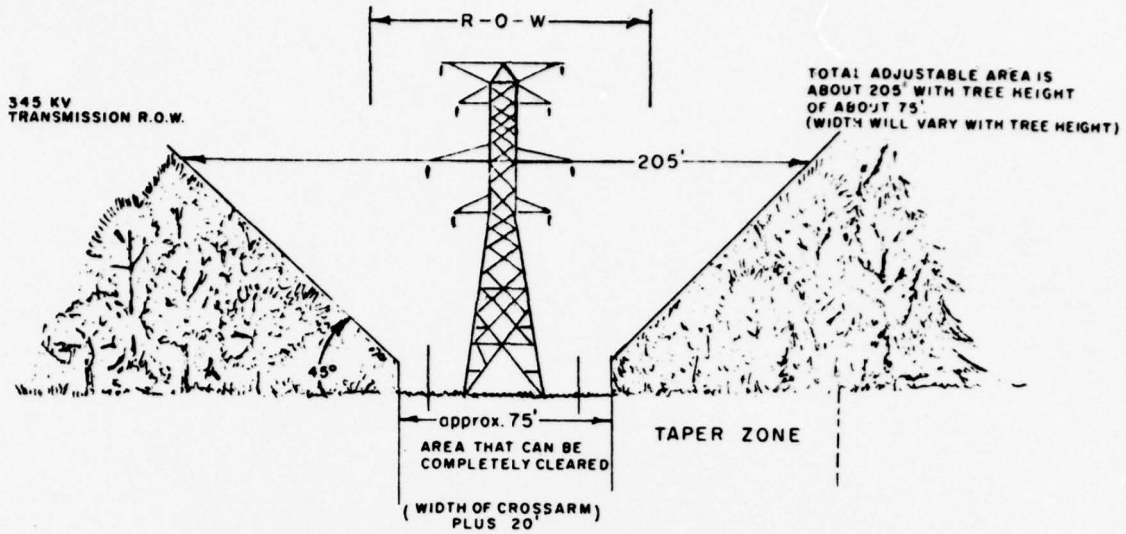
In those cases where it is or becomes necessary to have paired towers and lines on the right-of-way, the right-of-way width will be 100 feet plus the width of one supporting structure plus 65 percent of the height of poles or towers used.

(2) The area below and between the outermost limits of cross arms used, plus ten feet laterally on either side, may be cleared of trees and of shrubs, if necessary. Clearing is also permissible where needed during construction for placement of guy lines and for temporary storage of equipment and materials.

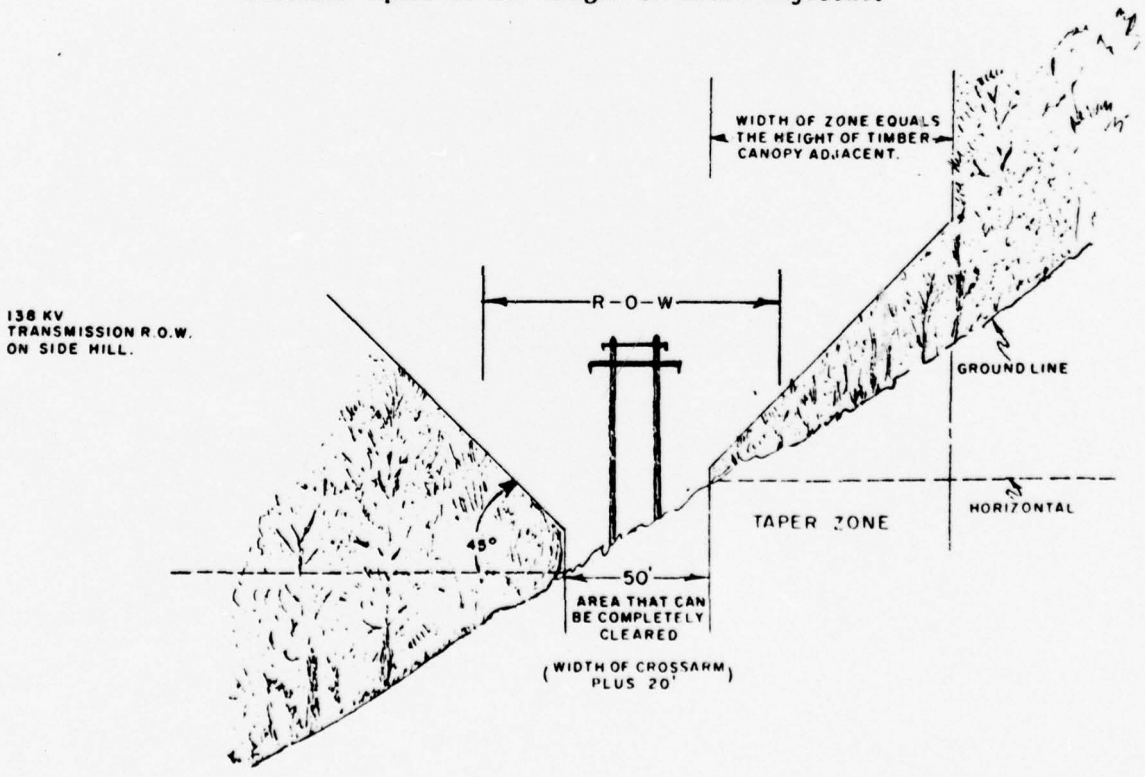


(3) Taper cutting will be allowed. This will be restricted to the removal or trimming of any tree the top of which grows above a line starting at the ground at a line beneath the outermost limits of cross arms used and extending upward and outward at 45 degrees from the horizontal. Where adjacent trees are tall, taper cutting may be extended outside of the right-of-way. Initial preparation of a new right-of-way may take most trees from this area. Land managers are requested not to plant or encourage the growth of trees that would enter the zone of taper cutting. This does not preclude introduction of low-growing flowering or fruiting trees or shrubs for aesthetic and wildlife benefits.





(4) Where an overhead line right-of-way traverses a hill at any angle across the direction of the slope, the zone of taper cutting on the upper slope should be limited to a horizontal distance equal to the height of trees adjacent.



(5) In any area or situation where circumstances may require deviation from these guidelines to protect the lines and structures from danger of falling trees, a permit may be issued by the field representative allowing removal of such trees. (See page 9 in regard to payment for timber.)

(6) In those cases where it is or becomes necessary to have paired towers and lines on the right-of-way, the area between may be cleared of tree growth.

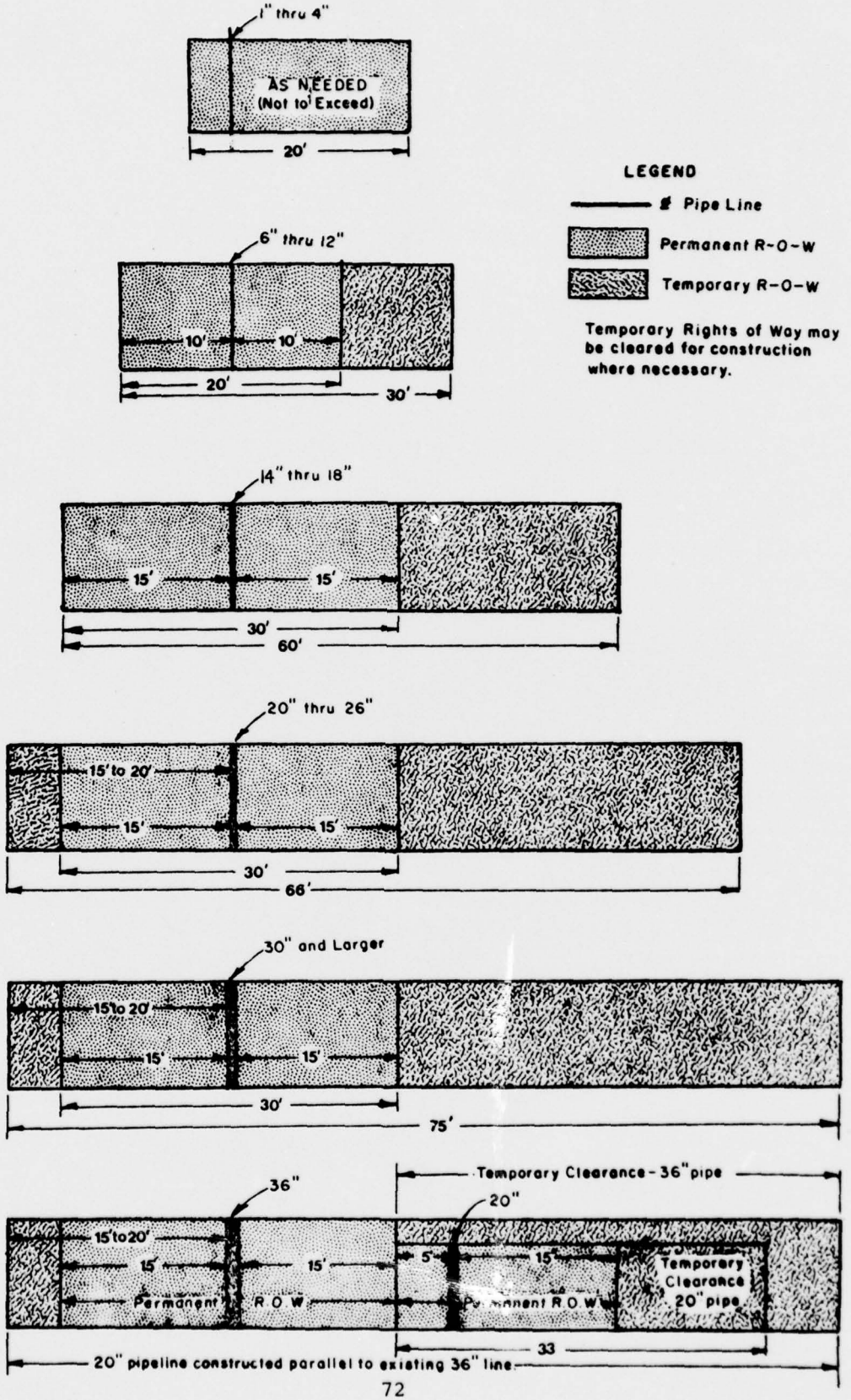
d. <u>For liquid or gas pipelines</u>:

(1) In placing gathering or collecting lines or other local service lines of from 1" to 4" diameter, wherever possible, especially where the line can be placed in any previously cleared route such as a trail road or well-access road, it is most desirable that small equipment be used, and that the right-of-way be no wider than 20 feet. Where obstacles or circumstances of construction do not allow this procedure, specifications and authorization will need to be devised and written as necessary.

(2) For lines of from 6" thru 12" in diameter, a temporary right to clear for construction purposes will be written into the easement. This will be a maximum of 30 feet, with permanent right-of-way to be 20 feet wide. Here again, exceptions may be agreed to when necessary.

(3) For pipelines of over 12" up to 18" in diameter, clearing rights up to 50 feet will be given, with permanent right-of-way of 30 feet.

PIPELINE RIGHTS-OF-WAY



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(4) For pipelines of from 20" to 26" in diameter, temporary clearance of 66 feet will be allowed, and permanent right-of-way of 30 feet.

(5) Pipelines of from 30" upward in diameter will be allowed 75 feet of clearance for construction, and a 30-foot permanent right-of-way.

(6) For any other than small lines plowed in, it is expected that the line will be laid within 15 to 20 feet from one side of the temporary clearing, and to be in the center of the permanent right-of-way. For this reason it is essential that proposals indicate on which side of the area to be cleared the pipe will be placed. When the route is staked out, prior to construction, the pipeline location should also be indicated with stakes on the ground.

(7) If less than the above temporary widths are needed during construction, companies are encouraged to avoid unnecessary clearing, which is the main cause of public objections. On the other hand, where particular circumstances such as swamps, hillsides, or road crossings require the use of additional width for piling extra dirt or using heavier equipment, this may be permitted.

(8) Where parallel pipelines are to use a common corridor, or where a pipeline is to be laid parallel to an existing cleared right-of-way of any other kind, the second line constructed will be allowed one-third less than the above stated temporary clearance width and permanent right-of-way width, both to be

contiguous with one side of the permanent right-of-way of the first line laid.

e. For Buildings, service structures and towers:

Sites for attached or unattached structures or communication towers will be limited to the area necessary for the actual building or buildings, towers, and required anchors for guy lines or other purposes. Land clearing will be permitted only to the extent required for safety, operation, and maintenance.

6. SERVICE AND ACCESS ROADS

Reasonable access and clearance should be anticipated and provided for so as to allow rapid repair in emergencies. The public cannot be expected to endure long service outages, and in many instances, breaks or disruptions may cause secondary damage in proportion to the length of time before repair. Access and service roads, however, should be designed and located so as not to encourage continuous public use of the trail on the right-of-way. This undesirable development may be avoided by dead-ending the necessary right-of-way trail at frequent intervals, so as to prevent through-traffic use. As an alternative, connecting access links for service vehicles must be available from convenient nearby roads and trails.

As an aid to concealment of rights-of-way, service structures, and towers, access and service roads should be curved, especially near the terminal junction with public roads.

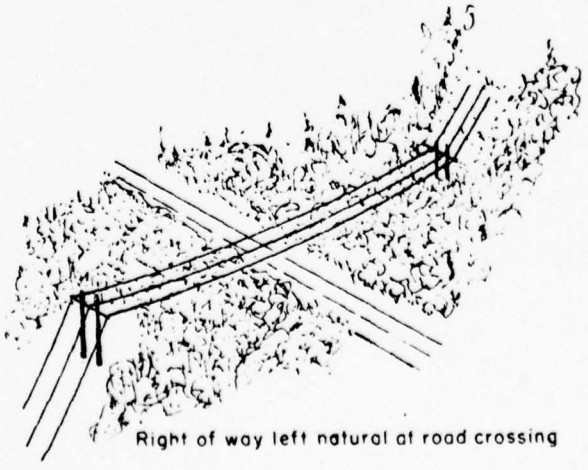
It is necessary to obtain a permit from the field representative for the purpose of constructing service or access roads across State lands. The permit issued is not an easement and does not give exclusive rights to the permittee. The width of clearing allowed should be the minimum necessary for the purpose. (See Apendix-Department Letter #122, p. 53.)

7. FEATURES AND DETAILS CONCERNING CONSTRUCTION

All buried utilities or pipelines must be placed so as to remain a minimum of twelve inches beneath the surface of the ground after construction is complete. All overhead lines of any kind must leave a minimum clearance above ground of fourteen feet. Over travelled portions of public roads, clearance must be at least fifteen feet.

Where guying is necessary to support above-ground structures, guy wires or lines should be protected by a shield or sleeve at least five inches in diameter, extending upward from the ground at least 10 feet for improved visibility and public safety. These shields may be galvanized, or may be colored a medium to light shade of gray or green.

The company responsible for clearance and construction shall take all necessary steps to prevent damage to the land, land cover, and wildlife habitat and to preserve the natural resources encountered. Soil, plant materials, or debris caused during construction should not be deposited outside the area of the right-of-way except with permission of the field representative.



Right of way left natural at road crossing

Use of natural growth for screening is desirable at each side of a road crossing; also at or near crests of hills or slopes if the right-of-way must cross at such points.

Where rights-of-way enter dense timber from a meadow or other clearing and where such entrance is visible from highways and other areas of public view, natural low-growing shrubs and trees should be preserved or screen planting should be employed. Trees and shrubs which are not cleared should not be unnecessarily damaged during construction. (In regard to disposition of trees, other vegetation cleared from the right-of-way, see 8. CLEANUP AND RESTORATION, Page 38).

All construction necessitating exposure or excavation of the soil on a slope shall be protected from wind or water erosion during construction by the use of deflection dykes at top of slope and at intervals to deflect run-off water into adjacent undisturbed areas, and with the use of straw, fabric, bark or wood chips, or metal or plastic matting or webbing where exposure may be continuous for over one week and where the slope exceeds one on three (1 vertical to 3 horizontal) and 20 feet in surface length. Sand bags or similar devices may be used in dyking or stabilizing measures.

Particular care must be taken to avoid soil erosion during and after construction. Terraces and other erosion control devices should be constructed where necessary to prevent soil erosion on slopes on which rights-of-way are located.

Prevention measures and structures as well as all re-shaping of the grade are the responsibility of the company (or contractor). In case of question as to cover and slope or erosion control devices, the field representative, with consultation of DNR engineers as needed, will make decisions necessary, or give approval. All blocked water drainage areas shall be cleared and sodded or seeded or culverts

placed as judged necessary by the field representative. On rights-of-way or abandoned temporary roads, all applications of sod, seed or fertilizer and any planting of shrubs or trees will be the responsibility of the field representative.

In all areas requiring temporary or permanent alteration of the natural ground surface where there is subsequent danger of erosion, suitable provisions should be made to prevent such erosions. After completion of construction and before seeding, sodding, planting, or otherwise revegetating the area, provision may be needed to restore or improve the ground surface by disking-in straw or by applying top-soil so as to encourage regrowth.

Temporary roads used for construction should be designed for proper drainage and built in such manner as to minimize soil erosion.

Proposed exterior plans and location of compressor stations and other above-ground facilities of any kind should be made available to the Department of Natural Resources at the time application is made for a construction permit.

The exterior of compressor stations and other above-ground facilities, to the extent consistent with the functional needs and economic feasibility of construction of such facilities, should not unduly detract from the surroundings and other buildings in the area. Painting such structures subdued tones of gray or green may be desirable.

In areas adjacent to such above-ground facilities, trees and shrubs should be planted, or other appropriate landscaping installed, in order to enhance the appearance of such facilities and to reduce noise emissions, consistent with operating needs. Native local plant materials suitable to the site and beneficial to wildlife will be used to the extent possible.

This planting and landscaping is the responsibility of the owners of the facility.

In the vicinity of substations, switchyards, pumping stations and radio relay towers, to the fullest extent feasible, wiring such as transformer circuits, distribution, control, telephone, and power source lines should be buried.

In most instances the height of a facility tends to obstruct the view and reduce the natural appearance of an area more than does its width. Microwave radio relay towers should be of such height, where possible, to just exceed surrounding tree heights so as to avoid the necessity of clearing beam paths.

8. CLEANUP AND RESTORATION

Cleanup after construction will include removal of equipment other than the installed facility, removal of any temporary haul or service road and removal of materials used or debris caused in construction.

Restoration after construction will include regrading to original contours or a lesser slope, replacement of topsoils which may have been removed, fertilizing, disking, and seeding, or planting live materials suitable to the site and beneficial to wildlife, with approval of the field representative.

No tools, equipment or materials used in construction or owned by the Company or contractor shall be left on the right-of-way or building site after construction. Responsibility for prompt and proper disposal of all such items and refuse such as wire, fuel cans, and boxes rests with the Company.

Disposal of trees and other vegetation cleared from rights-of-way requires care in order to avoid offending the public or interfering with various uses of the public lands. With these objectives, it is necessary to remove essentially all residual debris from sight in State Parks or in travel or water influence zones or any area within view from public roads or within 200 feet of lakes, streams, developed recreation areas or buildings. Tree stumps should be cut close to the ground or removed. Woody plant materials which cannot be used or sold (consult with the Area Forester) may be disposed of in these areas by chipping and scattering or by burying, where soil and terrain permit it. Material of small diameter (2" or less) may

be lopped and scattered if this does not result in a dense layer or piles. The field representative may require further dispersal or removal where the volume of debris is great. No burning should be done in these zones or areas.

Outside the travel or water influence zones woody and vegetative residual debris may be disposed of by chipping and scattering, burying, burning, or lopping and scattering. Windrowing of slash may be permitted at the discretion of the field representative. Soil and rock should not be incorporated into windrows.

In addition to the above recommendations, companies are cautioned that observance of the Slash Disposal Law (Act 35, 1955 - See Appendix, page 46) is required.

Any necessary cuts or fills on or adjacent to the site or right-of-way must be restored according to specifications provided by the field representative. He will also indicate the necessity for or desirability of leaving in place or removing dykes, protective webbing, drainage devices, or surface protective materials.

Upon abandonment of temporary roads used during construction, the area should be returned to natural conditions without undue delay. Soils moved during road building are to be redistributed over the area, and the surface disked. Natural drainage ways should be restored at the same time. Any subsequent fertilizing, seeding, or planting will be done by the DNR.

Revegetation and maintenance of ground cover (except for any tree removal or trimming to protect lines or structures) in areas occupied by overhead lines, buried cable, pipelines plowed-in where less than four feet of surface width is disturbed, or by structures

such as compressor stations, microwave stations, storage tanks, or switchyards, is the responsibility of the using company. In these circumstances, the planting of shrubs and low-growing trees to interrupt the lines of cleared areas and to screen structures or exposed ends of rights-of-way from public view is encouraged. Use of plant materials beneficial to wildlife and aesthetically pleasing is most desirable. Recommendations of available and suitable species may be obtained from the Area Forester and Wildlife Biologist.

For all those utility installations which are expected to require considerable clearing and disturbance of the ground surface, companies will be required to pay the DNR a standard fee per acre of right-of-way for the cost of necessary revegetation and maintenance work and materials. After construction, the Company will be expected to clear away residual debris and establish the rough grade. The DNR will then be responsible for ground preparation, fertilizer and seed application, and retreatment as needed. It will be the responsibility of the DNR to establish and maintain a cover of vegetation adequate to protect the area from erosion and to benefit wildlife and aesthetics. Where rights-of-way are developed, refurbishing of the opening created should be coordinated with the wildlife plan for the forest.

9. MAINTENANCE

Rights-of-way, yards, and areas surrounding facilities installed should be kept clean and free of unused or discarded materials and equipment. Field representatives are responsibile to notify companies involved to request corrective action. In cases of persistent disregard by the Company for this requirement, a written report by the field representative will be submitted to the District Office of the DNR and relayed to the Regional Manager.

Operation of above-ground facilities should conform to applicable air and water quality standards and to rules, regulations, and law pertaining to safety and fire hazards.

Access roads and service roads should be maintained so as to avoid erosion and reduce any undesirable aesthetic effects.

During inspection of rights-of-way, attention should be given to locate new erosion (especially gullies), fallen timber, and unusual condition or color of surrounding vegetation which might indicate accidents, breaks, or leaks. (See Section 10 - EMERGENCIES)

The use of chemicals to control woody growth on state-owned lands is not allowed without specific permission. (See Appendix, page 45. Pesticide Guidelines, No. 7-6, May 1, 1967.) A copy of any permission granted for this purpose should be sent to the field representative and he will be responsible for inspecting and reporting unauthorized or nonconforming applications of chemicals.

For recommendations regarding taper cutting and removal of danger trees along the right-of-way of overhead lines, see pages 25 and 27.

10. EMERGENCIES

In case of a break or leak in any liquid, gas, or electric power line, or an accident or spillage at connected structures or storage tanks, it is important that prompt action be taken to stop pollution, prevent subsequent damage, reduce resultant hazards, and restore service.

In order to accomplish this, any one finding a leak, break, or accidental damage should notify first the company responsible for the operation of the utility, and second, the field representative. Any company discovering such a break or disruption should notify the field representative or the nearest field office or District office of the DNR at the earliest possible time. If the break or disruption is discovered by a DNR employee, he is responsible to notify the company involved and his District supervisor. Unusual oil losses from oil operations and all oil losses from oil pipelines, oil tanks, loading installations, pump stations, truck transport or other transportation facilities are to be reported directly to the Water Management Bureau, Water Quality Control Division, Oil Pollution Control Section (Phone Area 517-373-7660).

In case of breaks in gas lines, the District office is required to notify the nearest State Police post and request them to immediately contact the East Lansing Post so that the latter may notify the Public Service Commission, which is responsible for investigation of such accidents. (DNR employees: See Department Letter #179, dated February 10, 1969. See Appendix, p. 57.)

In all instances, the nature of the break and its location should be reported, as well as what action has been taken to correct it,

if any. District offices are also required to report such matters to the Regional Manager. If any employee of the DNR in such instances is unable to contact the District office, he will notify the nearest State Police post and the Regional Manager and will subsequently advise the District office of the DNR.

For the procedure governing investigation and reporting of damage to fish or wildlife, fish and wildlife habitat and recreational values by pollution or suspected pollution, DNR employees are referred to Department Letter #37, dated June 13, 1967, (See Appendix, p. 49.).

APPENDIX

MICHIGAN DEPARTMENT OF CONSERVATION

Pesticide Guidelines

NUMBER - 7-6

DATE - May 1, 1967

SUBJECT - PERMITS FOR WOODY PLANT CONTROL ON RIGHTS-OF-WAY

The use of herbicides to control tree, shrub, and other plant growth on rights-of-way across state-owned land under the jurisdiction of the Michigan Department of Conservation will not be allowed without written permission. Application for a permit to treat such rights-of-way chemically will be made to the responsible regional office, where the regional manager or his delegated representative will issue the permit. A copy of the permit will be sent to the Staff Division office in charge of the administration of the land. Conditions to be considered in the issuance of the permit are:

1. The permit will cover only the calendar year in which it is issued.
2. The chemicals used must be non-toxic to wildlife and fish.
3. If practical, the permittee is to avoid the spraying of shrubs and other low growing vegetation.
4. For esthetic purposes, generally a 100-foot strip will be left untreated adjoining highways, streams, lakes, or other high use areas.
5. Chemical spraying of rights-of-way in Parks and Recreation Areas should not be permitted.

DEPARTMENT OF NATURAL RESOURCES

FOREST FIRE DIVISION

SLASH DISPOSAL

Filed with Secretary of State,

(By authority conferred on the director of natural resources by Act No. 35 of the Public Acts of 1955, being sections 320.41 to 320.48 of the Compiled Laws of 1948.)

R 299.901. Definitions.

Rule 1. As used in these rules unless the context requires a different meaning:

(a) "Slash" means branches, tops, chunks, cull logs, uprooted stumps and broken or uprooted trees left on the ground after cutting of forest growth, wind or fire. It does not include usable forest products or chips.

(b) "Public highway" means a road or highway under the jurisdiction of the state highway department or any county road commission.

R 299.902. Slash disposal in certain cases.

Rule 2. A cutting of forest growth resulting from the construction and maintenance of a public road, telephone, telegraph or other communication line, power line, oil and gas line, railroad that is a common carrier, or any other utility; or a cutting of forest growth on land bordering within 50 feet of a public highway shall be disposed of in accordance with these rules.

R 299.903. Utilities.

Rule 3. (1) A utility shall clear its right of way of slash for a distance of 50 feet from the edge of the cleared portion of a public highway right of way wherever its line crosses public roads.

(2) A utility shall clear its right of way of slash where its line is constructed or maintained within the limits of a public highway right of way.

(3) If a utility right of way is parallel to and adjoins a public highway right of way the utility shall dispose of all slash or shall move same to the edge of the utility right of way furthest removed from highway right of way. However, in neither case shall slash remain within 50 feet of the cleared portion of the public highway. If slash is placed in windrows on the furthest removed edge of utility right of way, they shall not exceed 20 feet at base nor 8 feet in height. An adequate break shall be provided at each 200 feet to allow for fire control access.

(4) A utility shall clear its right of way completely of slash in developed resort and suburban areas.

R 299.904. Slash near highways.

Rule 4. Slash on land bordering within 50 feet of a public highway, resulting from land clearing, forest product harvest, etc., shall be disposed of in a manner that such inflammable material shall not constitute a fire hazard as prescribed by the director of natural resources or his authorized representatives.

R 299.905. National forests.

Rule 5. In national forests, the U.S. forest service shall prescribe the degree of slash removal and the removal of forest products from government-owned lands. In no case, however, shall rules for elimination of fire hazards provide less than the minimum requirements in these rules.

R 299.906. Placing of slash.

Rule 6. Except as provided in rule 3 slash may be placed in windrows not to exceed 20 feet at base nor 8 feet in height. Slash shall not exceed 3 feet in height if scattered within the right of way. An adequate break shall be provided at each 200 feet to allow for fire control access.

R 299.907. Fires.

Rule 7. Burning of forest growth, slash and debris shall be done under a department of natural resources permit only, and when forest and grass lands are not endangered by such burning.

STATE OF MICHIGAN

GEORGE ROMNEY, Governor

DEPARTMENT OF CONSERVATION

STEVENS T. MASON BUILDING, LANSING, MICHIGAN 48926

RALPH A. MAC MULLAN, Director

DEPARTMENT LETTER NO. 37

(This will supersede previous Department Letter No. 37 dated May 31, 1960)

June 13, 1967

TO: All Supervisory Personnel

FROM: Ralph A. MacMullan, Director

SUBJECT: Procedure governing the investigation and reporting of damage to fish or wildlife, fish and wildlife habitat and recreational values by pollution or suspected pollution.

The Department of Conservation is responsible for the protection and conservation of the natural resources of the State (Act 17, P.A. 1921). This responsibility includes: the protection, conservation, control, and prohibition of pollution of the waters of the State; the protection and propagation of game and fish and their habitat.

The Water Resources Division is responsible for the abatement of pollution from domestic, industrial, and municipal sources.

The Geological Survey Division is responsible for the control and abatement of pollution by oil industry operations.

The Department of Conservation will investigate to determine the cause and extent of damage from pollution or suspected pollution whenever:

1. Injury or mortality to fish or game has occurred.
2. Habitat for game or fish is damaged.
3. Foreign substance is entering the waters of the State which is causing or may cause proximate damage to recreational use of such waters.

The Water Resources Division will make such contacts as are necessary to determine the source of pollution. The Geological Survey Division will make such contacts as are necessary to determine the source of pollution from oil industry operations. Other Department employees will not contact municipalities or industry to determine the source of the pollution. The latter direction will not be understood to prohibit contacts necessary to abate continuing pollution from an obvious source resulting in mortalities to fish or game.

During the process of an investigation, an employee may be asked to give information concerning the source of pollution. Until investigation has been completed, no statement will be made as to the cause or source of the pollution. Premature statements made without benefit of a full inquiry can be very damaging to the successful conduct of an investigation and/or may wrongfully injure an innocent party.

The initial investigation of reports of pollution will be made by a qualified employee. (Normally, the initial investigation will be made by a Conservation Officer. Occasionally, employees of Water Resources, Geological Survey, Fish, Game or other Divisions may make initial investigation.)

If the investigator determines that there is or may be fish or game mortality or damage to habitat or recreational values, he will record the basic information on Pollution Report Form (Cons. 1165, Rev. 6/67). The investigating employee will report promptly by telephone or radio to the District Office and include the information contained on the Pollution Report Form and any other pertinent information available to him.

The District Office will notify:

1. Appropriate District Biologists or Supervisors.
2. The Regional Office.
3. Water Resources Division.
4. Geological Survey Division if pollution is caused by oil industry operation.

The District Office will notify the appropriate office of these Divisions as indicated on an attached sheet.

The Regional Manager or his designee will notify the Director's Office and Divisional Chiefs concerned in cases involving significant losses or damage.

The investigating employee will continue with the investigation and the gathering of evidence. He will provide assistance to other Department personnel as needed.

In the event of an emergency or continuing pollution, the investigating employee will, in the event the District Office cannot be promptly contacted, attempt to notify the following personnel and offices in the order listed until one has been reached.

Appropriate District Biologist or Law Supervisor
Appropriate Regional Biologist or Law Supervisor
Regional Manager - or Assistant Regional Manager
Water Resources Division
Geological Survey Division

The investigating employee has a continuing obligation to notify or arrange for notification to the appropriate personnel if they were not initially located and informed of the emergency.

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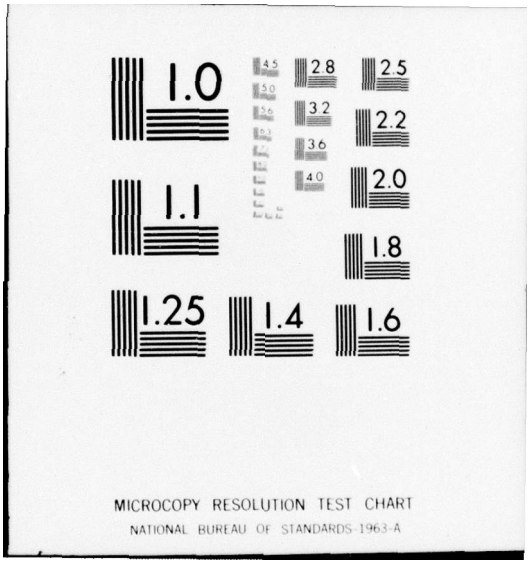
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The investigating employee, upon completion of his investigation, will complete the written report on Pollution Report Form (Cons. 1165, Rev. 6/67), and submit to the District Office. The report should be distributed by the District Office as follows:

Water Resources Division
Geological Survey Division (for oil industry pollution)
Regional Manager
Chief, Fish and/or Game Division
District Office

In situations involving damage to fish and game or their habitat, the report will be considered a preliminary report. In investigations not requiring a follow-up, it will be considered the final report.

In situations involving personnel of Water Resources or Geological Survey Divisions, a final report will be prepared by the Division having responsibility. This final report will be in the form of a memorandum and include:

1. Report of action taken.
2. Recommended control measures.
3. Test data and all records in support or conclusions.

In situations involving damage to fish or wildlife, a supplemental report will be prepared by the Biologist involved and provided to the reporting Division (Water Resources or Geological Survey). This supplemental report should include:

1. Numbers, sizes, and species injured or killed.
2. Appraisal of damage to habitat resulting from pollution, if it can be determined.
3. Any additional pertinent information.

The report will be reviewed by the Regional Manager and he will submit a recommendation for disposition to the Chief of Fish or Game Division.

The Division Chief concerned will, in consultation with Director's Staff, Department of Attorney General, Law Enforcement Division, Water Resources Division, and Geological Survey Division, determine what action will be taken. The employee initiating the report of investigation, and the recipients thereof, should receive copies of any supplemental and/or final report of action taken.

RESPONSIBILITY FOR INSTRUCTIONS:

It will be the responsibility of Fish, Game, Geological Survey, Law Enforcement, and Water Resources Divisions to prepare instructions for Field personnel in the proper collection and preparation of evidence acceptable in court.

It will be the responsibility of the Regional Manager to insure that appropriate Field personnel are properly instructed.

Ralph A. MacMullan

RAM:efg

WATER RESOURCES COMMISSION DISTRICT OFFICES

District #1
Pointe Mouillee State Game Area
37205 Mouille Rd.
Rockwood, MI 48173
(313) 379-9692

District #2
8th Floor, Stevens T. Mason Bldg.
Lansing, MI 48926
(517) 373-7660

District #3
4056 Plainfield Ave., N.E.
Grand Rapids, MI 49505
(616) 363-4856

District #4
8015 South 131 Road
R#1
Cadillac, MI 49601
(616) 775-9728

District #5
305 Ludington St.
Room 203
Escanaba, MI 49829
(906) 786-0333

GEOLOGICAL SURVEY FIELD OFFICES

Cadillac Field Office, District Hqs., R#1, 8015 South 131 Road, Cadillac, MI 49601. Phone (616) 775-9728

Gaylord Field Office, District Hqs., 546 S. Otsego Avenue, P.O. Box 576, Gaylord, MI 49735. Phone (517) 732-5128

Imlay City Field Office, District Hqs., 715 S. Cedar St., Box 218, Imlay City, MI 48444. Phone (313) 724-2015

Mt. Pleasant Field Office, 204 Court St., Mt. Pleasant, MI 48858 Phone (517) 773-9965

Plainwell Field Office, District Hqs., 621 10th St., Plainwell, MI 49080. Phone (616) 685-6851

Upper Peninsula Office, 203 State Office Bldg., Escanaba, MI 49829. Phone (906) 786-0333

STATE OF MICHIGAN
GEORGE ROMNEY, GOVERNOR

DEPARTMENT OF CONSERVATION

STEVENS T. MASON BLDG.
LANSING, MICHIGAN 48926

DEPARTMENT LETTER NO. 122
(This letter will supersede Department Letter No. 122-No date)

TO: All Supervisory Personnel

FROM: Ralph A. MacMullan, Director

SUBJECT: Roads on Conservation Department Land

PUBLIC ROADS

Only federal, state and county roads have legal status as public roads. All other roads crossing Department of Conservation administered lands are "Department roads." They are open for public use but may be closed at the option of the Department under Rule 1, "Rules and Regulations Governing the Use and Occupancy of State Land."

The State Highway Department, each county road commission, and each area forester (in Region I & II only) have maps on which is indicated the "County Primary" and "County Local" roads. These maps are revised annually. These roads are approved by the State Highway Department and provide the basis for fund allocation. We are advised by the State Highway Department, that to the best of their knowledge, all roads so indicated have public road status. All of these roads are supposed to have been either township roads which were taken over by the counties under authority of Act 130, P. A. 1931, or they obtained public status through due process.

As a general rule, a county public road right-of-way is 66 feet wide. Within this right-of-way the county has the authority to do whatever is necessary in order to construct and maintain the road. Also to reduce or eliminate hazards. In the case of trees it is generally conceded the county has the right to cut the trees on the right-of-way but the forest products belong to the adjacent property owner. On Conservation Department property, we manage the timber to the cleared portion of the road.

In order to provide a reasonable and workable application of the present road easement policy, we do not require the various county road commissions to

obtain easements for county primary and county local roads when reconstruction or maintenance involves widening, straightening or otherwise improving the highway crossing state lands as long as the work is within 33 feet of the center of the existing road. When additional width is needed for slopes and borrow purposes during construction, this work may be authorized by issuance of a grading permit.

DEPARTMENT ROADS

Because of the great importance of public recreation on lands under the jurisdiction of the Department of Conservation, it has become increasingly pertinent that proper and adequate consideration be given recreation and aesthetic values along with other public use interests, in the construction and improvement of roads on Departmental lands in Conservation projects. Furthermore, as the legal custodian of more than four million acres of public land it is, as a matter of proper recording, the duty and obligation of the Department to insure the proper encumbrance of such lands by all outstanding interests, including all types of rights-of-way and easements.

Jurisdiction of either existing Departmental roads or rights-of-way for proposed roads or portions thereof shall be relinquished to other agencies only through "due process," as provided by law. Such procedure shall include the proper encumbrance of state land records through the issuance by the Department of a duly executed easement designating the right-of-way alignment and width along with other pertinent information.

Easements for road rights-of-way are issued only to public agencies. Requests for right-of-way easements shall be made by the applicant directly to the Lands Section which, after checking state land ownership, shall be processed in accordance with Department Letter 165.

Whenever a new road or improvements on an existing road is requested by a company or an individual, a Road Access Permit (Cons. 4035), may be issued to the applicant, if the new road or improvement is desirable. Department Letter No. 161 designates the field representative responsible for issuing the permit.

Ralph A MacMillan

DIST: AA

STATE OF MICHIGAN
GEORGE ROMNEY, GOVERNOR

DEPARTMENT OF CONSERVATION

STEVENS T. MASON BLDG.
LANSING, MICHIGAN 48926

DEPARTMENT LETTER NO. 161

December 14, 1964

TO: All Supervisory Personnel

FROM: Ralph A. MacMullan, Director

SUBJECT: Permit and Easement Administration in Regions I and II

In Regions I and II the Forester shall be the field representative for the following permits or easements, except within the state parks and the Nyanquin Point Wildlife Area, Tobico Marsh State Game Area, Quanicassee Wildlife Area, and Edmore State Game Area.

Sand gravel, clay, stone, marl, peat, top soil and sod
Road, electric, telephone and pipeline rights-of-way
Road access
Agricultural
Grazing
Rifle, pistol, skeet, trap and archery ranges
Winter sports
Ccoperative camp and picnic grounds
Boat liveries
Dump ground
Free timber for domestic use
Airfield

All permits and easements shall be issued in accordance with Department procedure governing that particular permit.

For other than state forests and undedicated lands the foresters shall consult with and obtain the approval of the individual in charge of any unit administered by another section.

Dist: AA

Ralph A. MacMullan

STATE OF MICHIGAN

GEORGE ROMNEY, GOVERNOR

DEPARTMENT OF CONSERVATION

STEVENS T. MASON BLDG.
LANSING, MICHIGAN 48926

DEPARTMENT LETTER NO. 165

March 1, 1965

TO: All Supervisory Personnel

FROM: Ralph A. MacMullan, Director

SUBJECT: Right-of-Way Easement Applications

The following procedure deviates from normal procedure for handling orders, but is being authorized to expedite the handling of easement applications, as in many instances delays in securing service result in extreme hardship to users.

Right-of-way applications involving no more than one administrative area will be forwarded by the Lands Section directly to the person in the field immediately responsible for examining the proposed route. A copy of the letter of transmittal will be sent to the Regional and District offices as well as to the Lansing Section involved.

Field examination of such requests will have to be dovetailed in with regular work assignments from the Regional and/or District levels. No more than three weeks shall be taken by the area field representative to submit his examination report and recommendation to the District office, and no longer than one additional week should be required for the District and Region to return a report and recommendation to Lansing. All should be accomplished sooner if possible so there will be no undue delay in arriving at a determination to reject, amend or approve the application.

Applications for right-of-way crossing more than one administrative area will be forwarded by the Lands Section to the Regional Manager who will coordinate the field examination.

All reports and recommendations are to be returned to the Lands Section through the Lansing office of the Section or Sections involved.

Ralph A. MacMullan

Dist: AA

MICHIGAN WATER WONDERLAND

STATE OF MICHIGAN

WILLIAM G. MILLIKEN, Governor

DEPARTMENT OF NATURAL RESOURCES

STEVENS T. MASON BUILDING, LANSING, MICHIGAN 48926

RALPH A. MAC MULLAN, Director

DEPARTMENT LETTER NO. 179

February 10, 1969

TO: All Supervisory Personnel

FROM: Ralph A. MacMullan, Director

SUBJECT: Procedure governing the reporting of breaks in gas transmission and distribution lines

Department Letter No. 37, dated June 13, 1967, outlined the responsibility of Department personnel in connection with investigation and reporting procedures to be followed in the event pollution causes or may cause damage to fish or wildlife, and applies principally to losses of crude oil, gasoline and other refined products.

Except as property damage results or may result from a gas line break which affects the interests of this Department, the matter of actual investigation is the exclusive responsibility of the Public Service Commission.

The Department employee will, upon receiving definite information of such a break, immediately notify his district office and request them to relay this information to the nearest State Police post headquarters. The district office in advising the State Police post shall request that they immediately contact the East Lansing post so that the latter may notify the Public Service Commission. The district office will at the same time notify the regional manager as to action taken. If the district office is closed, the employee will notify the nearest State Police post headquarters direct and subsequently advise the district headquarters.

Ralph A MacMullan

GAW:md

Dist: B

STATE OF MICHIGAN

WILLIAM G. MILLIKEN, Governor

DEPARTMENT OF NATURAL RESOURCES

STEVENS T. MASON BUILDING, LANSING, MICHIGAN 48926

A. GENE GAZLAY, Director

DEPARTMENT LETTER NO. 196

December 1, 1972

TO: All Supervisory Personnel

FROM: A. Gene Gazlay, Director

SUBJECT: Responsibility for control of water pollution due to oil and gas operations.

The Water Resources Commission Act (Act 245, P.A. 1929, as amended) and the Supervisor of Wells Act (Act 61, P.A. 1939, as amended) may be so interpreted as to imply that the responsibilities of the Commission and of the Supervisor overlap in certain aspects of the control of pollution by petroleum and petroleum products.

The Attorney General's office advises that this problem can be resolved by my determination of the respective areas of responsibility, which I hereby make as follows:

> The Supervisor of Wells (State Geologist) shall be responsible for the prevention and control of all water pollution resulting from oil and gas field operations, including the drilling, operation, maintenance and abandonment of oil and gas wells, and the operation, maintenance and abandonment of all lease collection pipelines, lease crude-oil storage, including central tank facilities, and all handling and disposal of oil-field brines.
>
> The Water Resources Commission shall be responsible for the prevention and control of all water pollution resulting from the transportation of crude oil beyond lease storage tanks and all subsequent transportation, processing, refining and storage of oil or oil products. Transportation of oil or oil products beyond lease storage tanks, oil-field operations or refineries includes pipelines, truck transportation, vessel transport, railroad transport, and other overland or overwater means.

Wherever rules developed under Act 61 indicate a responsibility by or to the Supervisor of Wells which is duplicated by the above-described Water Resources Commission area of responsibility, the Supervisor should designate the Commission as his agent and thereby obviate any dual reporting by industry or overlapping of control by the Supervisor of Wells and the Water Resources Commission.

A. Gene Gazlay

MICHIGAN THE GREAT LAKE STATE

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20. ABSTRACT (Continue on reverse side if necessary and identify by block number)

Home Rule has been one of the leading factors in allowing Michigan to be somewhat experimental with municipal practices and forms of government. The greater independence achievable in maintaining local regulations has led to the creation of many small cities, and the incorporation of many villages. In most jurisdictions, zoning ordinances have evolved from categorization of existing land use or ownership, and many need overhauling to meet ecological and natural resource considerations. Future changes are required at both the state and local levels to effect the creation of special districts to preserve natural features and define land use policy.

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